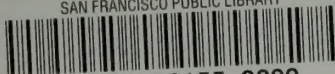


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HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA



STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

WEDNESDAY, AUGUST 5, 1992
1:55 P.M.

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SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 113

SACRAMENTO, CALIFORNIA

WEDNESDAY, AUGUST 5, 1992

1:55 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter

APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR NICHOLAS PETRIS

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

ELAINE W. DONALDSON, Member
Occupational Safety and Health Appeals Board

DOROTHY J. LEE, Member
State Board of Education

JOE STEIN, President
State Board of Education

GUS OWEN, Member
Fish and Game Commission

MARK J. PALMER, Legislative Advocate
Mountain Lion Foundation

IVONNE RAMOS RICHARDSON, Member
Agricultural Labor Relations Board

ROBERTO VELLANOWETH
American G.I. Forum

OTIS THURMAN, Warden
California State Prison at Lancaster

BEA MOLINA
Mexican-American Political Association

APPEARANCES (CONTINUED)

REGIS LANE, Union Representative
Corcoran State Prison Chapter
CCPOA

LEON RALPH, Former Assemblyman
Association of Black Correctional Workers

TED RICH

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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

SENATOR CRAVEN: Elaine W. Donaldson, Member,
Occupational Safety and Health Appeals Board.

Ms. Donaldson, if you will come up, please, and we will tell you, as you're getting seated, we'll ask you, as we do all appointees, why do you feel that you are qualified for this important post?

MS. DONALDSON: Thank you, Vice Chairman Craven and Members of the Committee.

My name is Elaine Donaldson. I am Chairman of the Cal-OSHA Appeals Board.

First of all, I want to thank the Committee for confirming me four years ago and eight years ago. I'm in my ninth year of serving on this -- in this capacity. The first three, attacking and completing an inherited backlog of 200 reconsiderations, or petitions for reconsideration; the next two years coping with the process of disengagement.

In 1986, December, the -- those petitions were finished and we were completely up to date. In January of '87, the Governor decided that he was going to do away with Cal-OSHA. We spent two years coping with that, and then a year coming back to speed, and in 1990, we spent redefining our future operations and planning for updating our equipment.

I feel that the Appeals Board has done -- has done an admirable job over the past eight years. I still find it exciting, satisfying, and I would like to continue to serve in

1 that capacity, and I ask for your support.

2 SENATOR CRAVEN: Thank you very much.

3 Is there anyone here who wishes to testify in favor
4 of the appointee? There appears to be none.

5 Is anyone in objection? There are none.

6 Senator Beverly.

7 SENATOR BEVERLY: Move the Committee recommend
8 approval of the confirmation.

9 SENATOR CRAVEN: Very good.

10 Call the roll, please.

11 SECRETARY WEBB: Senator Beverly.

12 SENATOR BEVERLY: Aye.

13 SECRETARY WEBB: Beverly Aye.

14 Senator Mello.

15 SENATOR MELLO: Aye.

16 SECRETARY WEBB: Mello Aye.

17 Senator Petris.

18 SENATOR PETRIS: Aye.

19 SECRETARY WEBB: Petris Aye.

20 Senator Craven.

21 SENATOR CRAVEN: Aye.

22 SECRETARY WEBB: Craven Aye.

23 Senator Roberti.

24 Four to zero.

25 [Thereupon the final vote for
26 confirmation was 5-0, as Senator
27 Roberti's aye vote was added
28

pursuant to Senate Rule 28.7]

SENATOR CRAVEN: Four to zero; confirmed, to the Floor.

MS. DONALDSON: Thank you very much, gentlemen. I appreciate it.

SENATOR CRAVEN: Thank you, Ms. Donaldson.

Next is Dorothy J. Lee, Member, State Board of Education.

Ms. Lee, good afternoon. We'll ask you to tell us the same thing, if you will, as to why you feel you're qualified for this post?

MS. LEE: Senator Craven, a special welcome back to you.

SENATOR CRAVEN: Thank you, you're very kind. I appreciate it.

MS. LEE: Members of the Committee, good afternoon.

I am both honored and pleased to be invited to appear at this hearing. Since my previous confirmation hearing on June 27th, 1990, I have endeavored to bring my expertise as a classroom teacher to the State Board of Education and to an educational committee and a commission.

In addition to serving on the Board of Education for the past two years, I was privileged to serve as liaison to the Governor's Chapter Two Committee and as a member of the Educational Technology Commission.

On the Chapter Two Committee, I was able to hear first-hand the many worthwhile projects funded by federal funds

1 for the study of mathematics, local government, and moral and
2 civic values. I am particularly proud of being a part of the
3 Committee that was responsible for "The Moral and Civic
4 Education Handbook." This handbook was distributed to every
5 California public school teacher. I have copies for each of you
6 as well. That is this one, here.

7
8 The Education Code proscribes the duty of teachers
9 concerning morals and citizenship as follows:

10 "Impress upon the minds of the
11 pupils the principles of morality,
12 truth, justice, patriotism, and a
13 true comprehension of the rights,
14 duties, and dignity of American
15 citizenship."

16 Successful teachers strive to meet these goals as they continue
17 to light that spark in each student in his or her quest for
18 learning.

19 The Educational Technology California Master Plan was
20 established by AB 1470 to develop objectives for all the state's
21 students, including those with limited English abilities. The
22 Commission defined the program that provides for the equity of
23 resources and access to technology which will be coordinated
24 from K-12, and in the community colleges, the California State
25 University system, and the University of California system. I
26 also have copies of the Master Plan for each of you, and a small
27 brochure, because I know your time is very limited.

28 SENATOR CRAVEN: The Sergeant will distribute those.

1 MS. LEE: The future of public education in
2 California is challenging with a growth in student population.
3 I want to be a part of meeting this challenge, and I'm looking
4 forward to seeing the implementation of the exciting school
5 reform programs as outlined in the publications: Here They
6 Come, Ready or Not; It's Elementary; Caught in the Middle;
7 Second to None. These reports have been enthusiastically
8 receive by teachers throughout the State of California.

9 I taught a kindergarten class that graduates from
10 high school in the year 2000. I think that was one of my
11 greatest thrills.

12 For that and other reasons, I am pleased with the
13 recommendations in the reports, for children today will be
14 expected to participate in a society far more complex than
15 previous generations. These students must have skills necessary
16 to compete in the highly competitive and technical job market.

17 In this country's diverse population, teachers are
18 asked to do so much with so little. These teachers meet every
19 charge and every challenge with professionalism and excellence.
20 There is no other country in the world which provides education
21 for all students at all times.

22 We have a right to be proud of our system of
23 education. Still, our educational system will see some
24 challenging times ahead, and it will require from all of us
25 vigorous and continuous effort to sustain the schools and
26 preserve them for succeeding generations of students.

27 I ask that you allow me to continue to serve on the
28

1 California State Board of Education. In return, I promise you
2 the students, both current and future, and the people of this
3 great state, that I will put forth vigorous and continuous
4 effort.

5 SENATOR CRAVEN: Thank you very much.

6 Is there anyone in the audience who wishes to support
7 the nominee? One gentleman, fine. Please come up, state your
8 name.

9 MR. STEIN: My name is Joe Stein. I'm President of
10 the State Board of Education.

11 Welcome back, Senator Craven. It's nice to see you
12 in your appointed place.

13 SENATOR CRAVEN: Thank you.

14 MR. STEIN: You've heard a wonderful statement from
15 Dorothy Lee. Last month I was here to support the nomination
16 and the appointment of Mr. Benjamin Montoya, and I'm hoping that
17 that will reach the Floor and we'll hear good news on that one
18 as well.

19 I address you as a strong supporter of the
20 confirmation of Dorothy J. Lee's appointment to the State Board
21 of Education. I'm very proud to say that I was the first person
22 to approach her and then recommend her as an appointee to the
23 Board.

24 If Dorothy Lee could be cloned and placed in every
25 classroom, there would be a dramatic immediate improvement in
26 student performance and in the quality of education. Having
27 served as a deeply involved citizen, classroom teacher, deputy
28

1 principal, education advocate for over 30 years, and receiving
2 nomination as Teacher of the Year, Dorothy brings to our Board
3 some very special credentials. Although she has many others, I
4 will mention only two.

5 First is the viewpoint of one who serves -- and use
6 the word advisedly -- our children in the front lines and has
7 achieved an enviable and commendable record of success.

8 Second is the thoughtful dedication which guides her
9 pragmatic decision making without diluting her high principles.

10 Dorothy Lee has been an outstanding example of a
11 Board member, never shirking responsibility, and always willing
12 to give selflessly of her time and many talents on behalf of
13 students.

14 We are indeed fortunate to have Dorothy Lee on the
15 State Board of Education, and I fervently urge your affirmative
16 vote on recommending her confirmation to the full Senate.

17 Thank you.

18 SENATOR CRAVEN: Thank you very much.

19 Anyone else? No.

20 Any comment from the Members? Senator Mello.

21 SENATOR MELLO: Mr. Chairman, a thought comes to
22 mind. Perhaps Mr. Stein would like to answer this also. It's
23 not very often that we get two people up here at one time.

24 About two weeks ago, there was a gentleman, a
25 business person in California, that ran full-page ads in the
26 papers throughout California. His firm, I remember the name of
27 his firm, it's called Acutune; they provide tune-ups to cars and
28

1 everything. And he advocated raising the gasoline tax 20 cents
2 a gallon to put that money into schools. And the reason for his
3 statement is that he was just shocked at the fact that people
4 graduated from our schools can't even read and write and do
5 simple math when they come in to get a job.

6 You know, everybody's talking about how great things
7 are going in our schools, I really think -- and I'm not blaming
8 you for this, or Mr. Stein -- but the fact that the Governor
9 wants to cut education by 2.3 billion, and I think California's
10 now fallen to an all-time low as far as -- in fact with his
11 plan, we would be behind the states of Louisiana and South
12 Carolina in funding for education.

13 SENATOR CRAVEN: Forty-first, I think.

14 SENATOR MELLO: We've become the 41st state. I'm not
15 happy with that at all.

16 I'm just wondering, from people being on the School
17 Board, my goodness, what do we do with the tremendous growth in
18 our school system, the fact that people can't even read and
19 write, graduating; they're being given a diploma. I think
20 that's the most shocking thing in the world.

21 And this gentleman came forward from the business
22 community and said, "Let's raise taxes to save our schools and
23 our state," and he also had another goal. I forget what they
24 were.

25 So, I'd just like to hear your comments from that, if
26 you're proud with the status quo. I sure am not. I just want
27 to lend my part to try to help improve our schools.
28

1 I think that's your goal, but I just -- how do we do
2 it?

3 MS. LEE: Well, there is one thing about our teaching
4 staff. Our teaching staff is very dedicated, and they are
5 advocates for children. And it seems that regardless of the
6 financial [sic], they're all in there plugging, and they spend
7 their own money. They spend their own time supporting
8 education, the education of children.

9 And of course in California, we have 82 different
10 languages, so this is one of our greatest challenges. We have
11 82 -- over 82 languages in the City of Los Angeles alone. So,
12 we are doing all that we can. We have special reading teachers.
13 We have the Miller-Unruh program, and all of these special
14 teachers help. And that's one thing we do with our Chapter Two
15 federal funding, too.

16 Although, I truly am a firm believer that education
17 is a local control, state-controlled thing, and you know, as
18 long as we have this recession, and we have the earthquake, and
19 the flood, and it's -- and then with the defense, a lot of
20 companies leaving California, it's a very difficult thing.

21 We have probably 200,000 students moving into
22 California every year; 10,000 people moving in every month, as
23 you all know. If we built 16 school rooms a day, we wouldn't
24 have enough to accommodate everyone.

25 So we just, a teaching staff, we just -- we try, and
26 we do the best with what we can.
27
28

1 We're doing a wonderful job with our bilingual
2 program. The school that I'm in is over 50 percent bilingual.
3 We have some wonderful, wonderful bilingual teachers. We have
4 some great institutions: USC, the State University system at
5 Cal Poly. We have eight new teachers at our school from -- that
6 came out of Cal Poly highly trained and wonderful, dedicated
7 teachers.

8 SENATOR MELLO: I agree, the teachers are working
9 hard, dedicated, as are many others, but I really -- only about
10 six percent of our funding comes from the federal government.

11 MS. LEE: Right.

12 SENATOR MELLO: Funding for education is pretty much
13 state and local.

14 MS. LEE: Right.

15 SENATOR MELLO: I have a bill on bilingual education,
16 and I agree with you. I think my goal is to have people learn
17 English.

18 But right now, even English-speaking kids aren't
19 learning how to speak, and do math, and get enough education in
20 our public school system to even get a basic, entry-level job.
21 That's what I want you to kind of respond to.

22 How do we get people more qualified with a diploma
23 that'll mean something?

24 MS. LEE: Like I say, we just try -- try our best.
25 We do have special reading teachers, and we have a new math
26 program.

27 SENATOR MELLO: Let me ask you a different question.
28

1 Do the schools need more money?

2 MS. LEE: I think the schools can use more money, but
3 on the local level, we're there, and they just say, you know,
4 you cut your funds, and we just seem to cut and cut and cut
5 because the money isn't there. And we just feel that the
6 Legislature, whatever money we have, the school districts have
7 to wait, and each year, and find out how much money --

8 SENATOR MELLO: This is a final point I want to make.

9 This gentleman that ran this ad, he got 750 letters
10 back. Three of them were negative towards him wanting to raise
11 gas taxes, but the rest of them, 747, were positive. And they
12 gave him a great congratulations for taking the leadership and
13 running an ad to try to do something about --

14 MS. LEE: Well actually, the public -- I don't mean
15 to interrupt you -- the public schools are doing a great job.
16 They're doing a great job with the students.

17 SENATOR MELLO: Well, yeah, I think they're doing all
18 -- and we're partly to blame up here for not providing. I think
19 they need more money, because with 200,000 or 245,000 new
20 students, it takes more teachers, classrooms, buses, books and
21 everything.

22 But I'm just going by the fact that there's so many
23 of our children are -- they're dropping out; they're not going
24 on to university.

25 MS. LEE: Well, that is one of our challenges, that
26 each student will attain marketable skills. That is the
27 challenge of education today.
28

1 SENATOR MELLO: I'm embarrassed. When people
2 graduate, they -- what do they graduate them for?

3 MS. LEE: The high school reform, Second to None, I
4 think that's why the high schools are very excited about that,
5 because it kind of is a partnership between business and
6 education, that students in high school will be out working on
7 the job as part of their academic program.

8 MR. STEIN: Senator, the reason I came back to the
9 table, I think, in my own mind, we have to be careful in
10 equating dollars spent and improvement. And one of the things
11 that the Board is very concerned about, and has been concerned
12 about for the last two or three years, is accountability. And
13 we feel that there are a lot of dollars. There are 29 -- close
14 to \$29 billion being used for K-12 education. That's the
15 largest sum of money used for any particular entity in the
16 state. And I think we have to stretch those dollars under the
17 trying circumstances to the maximum.

18 There are people that say we don't need more money;
19 we need more accountability. And you can come down on either
20 side of the argument on that.

21 As far as the priorities of the school -- of the
22 State Board this year, we chose to tackle three goals, one of
23 which is school-to-work transition. And I was in Philadelphia
24 three days just last week, meeting with presidents of state
25 boards of education from around the country, 30 states to be
26 exact, and that is -- that was the subject of the conference.
27 We're hoping that we can get private enterprise, we can get
28

1 business, to help us in this, because the state just doesn't
2 have the money to -- to ante up.

3 SENATOR MELLO: Yes, but being more accountable, I
4 agree we ought to cut out the waste in some of these big -- I
5 was -- the other day, in L.A. Unified, somebody passed away --
6 passed around a memo showing the salaries for the top brass of
7 L.A. Unified School District, starting at 192,000. And the
8 peons, sort of middle management, got 120,000.

9 But the point is, let's face it, and compared with 50
10 states in the ADA support in dollars, we will be ranking
11 fortieth.

12 MR. STEIN: But where -- but where are the results?
13 States that have less ADA but are getting better test results.

14 So, I think we -- so, that's why I say, it's hard to
15 equate the dollars putting in unless you see what you're getting
16 for those dollars.

17 I think we can get a better stretch for the dollar.
18 We'll have to, under the circumstances.

19 SENATOR MELLO: The way it looks right now, let me
20 get my chart, Mississippi is below us --

21 MR. STEIN: That's true.

22 SENATOR MELLO: -- Georgia, and there's about ten
23 states that are below us. I think that states that are -- like,
24 New York is putting in more money into education than we are.

25 So, I don't know. I say we ought to cut out the
26 waste, and cut out some of these high salaries we have in our
27 schools, and get more money in the classroom.
28

1 But I think even with all the economy in the world,
2 we're just not hacking it as far as -- accountability ought to
3 lead to the children who are there graduating, and emphasize
4 instruction.

5 And I really appreciate both of you coming forward,
6 because --

7 MR. STEIN: We agree 100 percent.

8 SENATOR MELLO: -- you're the ones who are going to
9 make these decisions on the state level. We just have to do
10 something, otherwise, California's going to erode further
11 without having -- the basic K-12 is important.

12 The more money you spoke about is for 5 million
13 students.

14 MR. STEIN: That's right.

15 SENATOR MELLO: That's a lot of students. And I hope
16 that they get a good education, go on to college, community
17 college, and the university, and get post-graduate work. That's
18 going to be the answer ultimately, but it's not going to happen
19 unless, somehow, the parents, and the schools, and the
20 government, and everybody working together has got to do a
21 better job.

22 Thank you both very much.

23 MR. STEIN: Thank you, Senator.

24 SENATOR CRAVEN: Thank you.

25 You've answered it, Dorothy; that's fine.

26 Senator Petris.

27 SENATOR PETRIS: Yes, I'd like to follow through.
28

1 Just following up on what Senator Mello said, we're all very
2 concerned.

3 It's nice to hear that our schools are doing a
4 wonderful job, but that isn't borne out by the reports. I don't
5 know of one report that says that. Here and there you see a
6 little bit of an increase in the test scores.

7 It's not all a matter of money, although money plays
8 a big part. Teachers in the district where I live buy supplies
9 and things out of their own pockets. So, I don't think
10 administrators are paying for those supplies; it's the teacher
11 in the classroom.

12 Just recently, we had the National Convention of the
13 American Library Association in San Francisco. They reminded us
14 that we're number 50 in the country in two important categories.
15 One is the number of books available in our public school
16 libraries; number 50.

17 It seems to me the minute the members of the Board of
18 Education read that, they should have sprung into action and go
19 knock on the Governor's door, all the doors necessary, and say,
20 "Hey, we don't have enough books in our system."

21 Secondly, we have the worst record in the country on
22 the number of public school librarians who are certified. I
23 guess the janitors are running the libraries. I've been in
24 schools where the library's in the cafeteria. I mean, that's
25 disgraceful!

26 There are schools right here in this county where the
27 libraries are in the cafeteria, which is already being used for
28

1 multipurpose, for plays, and programs, and everything else. The
2 library ought to be in a different place by itself. That's a
3 function of money, but not everything is.

4 Now, how can you say they're doing a wonderful job?
5 I don't understand that.

6 MS. LEE: We try, I guess, do what we can. Now,
7 there is a --

8 SENATOR PETRIS: That's a little different.

9 MS. LEE: There is a lot of school reform going on in
10 California. For instance, in my district just today, it came
11 out in the paper that the school board had made a decision --
12 our superintendent is leaving to go to Chicago, and at a larger
13 raise and a smaller district. We have 15,000 students in our
14 district. He's going to an elementary district, and our
15 district is unified with two high schools. He's going to an
16 elementary district west of Chicago, Bensonville, Illinois. And
17 he will be receiving a salary of \$100,000 a year.

18 And there is -- there are eleven districts that have
19 been chosen nationwide to have a brand-new school system, with a
20 lot of money contributed by these private companies. And after
21 he leaves, the district, our district, is not going to rehire a
22 superintendent. The board is not planning to. They're planning
23 to have a lot of administrators get together as a group to --
24 and I guess the assistant superintendents, so that we can save
25 his salary, which is \$88,000.

26 And I -- the last time that I spoke with
27 Dr. Calderelli -- he used to be in Martinez and then he went to
28

1 Ventura; he's been our superintendent for four years --

2 Dr. Calderelli said there is going to be a great amount of
3 reform as far as the administration is concerned. It looks like
4 Ventura is thinking seriously about carrying that out.

5 So, that is one way that we will be --

6 SENATOR PETRIS: If they're doing such a great job,
7 we wouldn't need reform; would we? I suppose you can always do
8 a little better, but --

9 MS. LEE: As a teacher, I like to be optimistic, and
10 we are.

11 And in our district, we do have statistics that show
12 us that now we have more -- more of our high school seniors have
13 been accepted at Stanford and Berkeley than ever before, which
14 is something that I'm very proud of.

15 Usually in Ventura, we have two students accepted at
16 Stanford, and this year we had nine or ten students, seniors, in
17 a small high school at Ventura High, so we're very proud of
18 that.

19 We -- we just keep working harder and keep plugging
20 at it.

21 SENATOR PETRIS: How are we doing around the rest of
22 the state? How are we doing in some of the bigger cities? How
23 are we doing in L.A., San Diego, San Francisco?

24 We've got functional illiterates coming out of a lot
25 of those districts. The employers tell us they can't even read
26 the instructions on how to do a particular job. You send them
27 to the supermarket with a list of groceries -- this has been
28

1 done over and over -- a list of groceries, and challenge them to
2 do a particular function, either find the ones that're the
3 cheapest or whatever, they can't handle it. These are high
4 school graduates with a diploma that Senator Mello was telling
5 us about. It's really sad.

6 MS. LEE: No, our students -- my parents have a
7 grocery store in Ventura, and I worked there in the evenings,
8 and so -- we do have high school students where they have an
9 assignment like that. What they do is, they go to Von's, go to
10 Ralph's, and go someplace else, and they, you know, they go and
11 see how much all the items are and figure it out. They -- they
12 do that very successfully.

13 So, I -- I haven't seen a lot of those students that
14 you're speaking of in our district. I know a lot of times --

15 SENATOR PETRIS: No, I'm speaking to you from the
16 statewide viewpoint as a Board member. Maybe in your district
17 it's a lot better; I hope it is.

18 Don't you think the Board should be doing something
19 about this library and book situation?

20 MS. LEE: Yes, that is a concern because there's so
21 many librarians, you're right, that are being eliminated from
22 all the districts. It seems like when the district needs to cut
23 funds, they cut the librarian, which is really a shame.

24 I know at our school, like I say -- I have my own
25 experience with my school -- we did have to move the library
26 because we had -- we're right at the northern border of Los
27 Angeles County, and our school was just so full that we had to
28

1 take our library and use it for a classroom. Then we had to use
2 our auditorium for a classroom. So, we're using our remedial
3 reading room, kind of like a little conference room, for our
4 library. And we do have --

5 SENATOR PETRIS: Well, now, that's not satisfactory,
6 is it?

7 MS. LEE: No, no, it's not, but we don't have enough
8 rooms for all the students. We have so many students enrolling.

9 So, that is one of the things that we need to work
10 on, more buildings, construction. I was real happy to see that
11 one of our initiatives was passed, propositions, where we will
12 have more funding for school buildings.

13 SENATOR PETRIS: Thank you.

14 SENATOR CRAVEN: Okay, thank you very much.

15 Senator Beverly.

16 SENATOR BEVERLY: I guess we can't expect Ms. Lee to
17 solve our budget problems when 120 of us haven't been able to do
18 it yet.

19 However, notwithstanding that, I move approval of the
20 nomination.

21 SENATOR CRAVEN: Senator Beverly moves.

22 Would you call the roll, please.

23 SECRETARY WEBB: Senator Beverly.

24 SENATOR BEVERLY: Aye.

25 SECRETARY WEBB: Beverly Aye.

26 Senator Mello.

27 SENATOR MELLO: Aye.
28

1 SECRETARY WEBB: Mello Aye.

2 Senator Petris.

3 SENATOR PETRIS: Aye.

4 SECRETARY WEBB: Petris Aye.

5 Senator Craven.

6 SENATOR CRAVEN: Aye.

7 SECRETARY WEBB: Craven Aye.

8 Senator Roberti.

9 Four to zero.

10 [Thereupon the final vote for
11 confirmation was 5-0, as Senator
12 Roberti's aye vote was added
13 pursuant to Senate Rule 28.7]

14 SENATOR CRAVEN: Four to zero; the issue is to the
15 Floor.

16 [Thereupon the Senate Rules
17 Committee acted upon legislative
18 agenda items.]

19 SENATOR CRAVEN: Let's go back to appointees. Next
20 is Mr. Gus Owen, Member, Fish and Game Commission.

21 MR. OWEN: Thank you, Senator Craven, Senators.
22 Thank you for the time and your indulgence this
23 afternoon.

24 I would like, if I could, I would like to go back a
25 little bit in history about one of the reasons that I'm
26 interested in the Fish and Game Commission here today.

27 That is, I lived on a tenant farm in Oklahoma when I
28

1 was a young boy. We had turkey, deer, black bear even in those
2 days; ate quite a few possum also in those days, which is kind
3 of unusual, being a rodent, but in those days, when you were a
4 tenant farmer, you had to.

5 I came out here at the young age of 15 on my own.
6 Eventually went into the Marine Corps and went to Korea. Came
7 back and became a surfer and a skin diver along the coast here.
8 I became well acquainted with the marine life.

9 We used to have white sea bass, yellowtail, lobster
10 -- 16 pounder I got at Crescent Cove in north Laguna. That was
11 back in about 1957; it's not too long ago. We were able to get
12 scallops, abalone, pinks and reds, even.

13 Nowadays, those things are gone because the state has
14 changed considerably. We've moved up to 30 million people.
15 I've been a part of the process and so has each one of us. I
16 have three children; they will have children. And we still have
17 people coming across our borders, coming from Oklahoma and
18 Arkansas, for a better opportunity.

19 And I thought that this would be a great opportunity
20 for me, as much as I've experienced of this state, that I could
21 give back something to the state by participating in the Fish
22 and Game Commission and learning something about the rest of our
23 state.

24 I've been a hunter for a number of years. I quit
25 that a few years ago because I found the necessity was no longer
26 there, and I didn't know what to do with all of the deer meat.
27 Now then, when I go hunting for elk in Montana or someplace, I
28

1 hope that I never shoot one, because I'd probably have a heart
2 attack trying to get it out of the hills.

3 But this is kind of the way it is. And I really
4 enjoy the State of California. I think I have an awful lot to
5 contribute.

6 I'd like to restore some of the things that we can,
7 where we can; an awful lot of it, we can't at the present time
8 due to the water situation. Some of it we can't due to the
9 build-out throughout the state.

10 But I think there are opportunities for me. I'm Vice
11 Chairman of the California Institute, which was formed just
12 about a year and a half ago, two years ago. And the California
13 Institute is comprised of four Republicans and four Democrats in
14 the State of California. Our job is to bring together the
15 delegation on issues of common interest back in Washington, D.C.
16 That includes our two Senators and the Governor's Office. And I
17 have been working through that to try to identify new sources of
18 funds for the Fish and Game, because there was some legislation
19 passed many years ago that kind of short-changed us, I believe,
20 where we're getting less than our 12 percent that we should be
21 getting. And so, we're looking into that through the California
22 Institute and our staff back there.

23 I do have a letter here from the Mountain Lion
24 Foundation which I'm very pleased with. I think it's in your
25 packet. I also have met with a number of the people involved
26 with the environmental and saving the animals, and so forth, and
27 too numerous to mention, probably, but I think that I can work
28

1 with the people from those areas, also from the development
2 community, and also the ranchers, property owners, up and down
3 the State of California.
4

5 I can bring to the Commission a certain amount of
6 common sense. It already has that, but I know that I have
7 survived by the utilization of common sense and the lack of an
8 education here in this great state. And I'd like to continue to
9 do that, contribute my part and my share to the Commission.

10 SENATOR CRAVEN: Fine, thank you very much, sir.

11 Anyone in the audience like to speak in favor of the
12 appointee?

13 MR. PALMER: Thank you, Mr. Chairman, Members of the
14 Committee.

15 I'm Mark Palmer. I'm with the Mountain Lion
16 Foundation.

17 We met with Gus Owen a few weeks ago, and we have
18 been talking with him and watching his career. And I guess the
19 basic message I'd like to give with you is that we feel that
20 Mr. Owen is willing to work with us, and we hope he continues to
21 work with us, and that being the case, we're willing to work
22 with him.

23 We did have a great deal of nervousness when he was
24 first appointed because of his background. Some of the
25 statements he made before the Fish and Game Commission in those
26 first initial meetings caused some concerns, and his opposition
27 to some listings of endangered species.

28 However, he's come a long way from that. We've been

1 impressed that he's changed his position. Getting more
2 information for him has allowed him to change his position on
3 the listing of some of these critical areas of rare and
4 endangered species.

5 We think he's interested in changing the way that the
6 Fish and Game Commission works. We've had a lot of concern
7 about that, as you know. We brought it to this Committee over
8 the years. And I think Mr. Owen will help us, and will help the
9 other members of the Commission to get along.

10 So, rather than some of the rigidity we've seen in
11 past administration appointments -- not this administration, but
12 the Deukmejian administration -- appointments to the Fish and
13 Game Commission, we think we can work with Mr. Owen. We're
14 impressed with that.

15 I did want to point out particularly the bobcat
16 issue, which is going to come back up before the Commission, and
17 also before the State Senate. We will be bringing that issue to
18 the Legislature. Bobcat trapping is occurring in California,
19 and it's a great concern of ours as it's currently conducted.

20 In any event, again, as basically a wind-up, we think
21 we can work with him. We're willing to work with him and keep
22 the lines of communication open.

23 Thanks very much for your help.

24 SENATOR CRAVEN: Thank you very much, sir.

25 SENATOR MELLO: Question.

26 SENATOR CRAVEN: Yes, Senator Mello.

27 SENATOR MELLO: Mr. Chairman, may I ask, what's the
28

1 status now of the hunt of mountain lions? Has it been set aside
2 by a moratorium, a court action, or are they being hunted?

3 MR. PALMER: Mountain lions statewide -- Proposition
4 117, which was passed by the voters in 1990, permanently
5 prohibits trophy hunting of mountain lions, so they cannot be
6 hunted for sport.

7 However, there are provisions in there for killing
8 mountain lion in the case of public safety, in the case of
9 depredations, the damage to livestock and whatnot. So, there
10 are still lions being killed.

11 We've been trying to work with the Department of Fish
12 and Game to come up with some public education programs to help
13 both protect public health and public safety, as well as
14 livestock, and at the same time, prevent lions from being killed
15 willy-nilly.

16 SENATOR MELLO: Is the population on the increase
17 then?

18 MR. PALMER: We don't know. That's a good question.
19 There's not a whole lot of statewide research that's been going
20 on.

21 The Department of Fish and Game claims the population
22 is increasing. We think it may be due to the drought, that
23 we're seeing more mountain lions, and therefore it seems like
24 there are more.

25 We can't really answer that question without
26 statewide research.

27 SENATOR MELLO: Thank you.
28

1 SENATOR CRAVEN: Very good.

2 MR. PALMER: Thank you.

3 SENATOR CRAVEN: Is there anyone else in favor?
4 Anyone in opposition? There appears to be none; no one.

5 What's your pleasure, gentlemen?

6 SENATOR BEVERLY: I'm pleased to move the approval of
7 the nomination.

8 SENATOR CRAVEN: Very well, Senator Beverly moves.

9 Call the roll.

10 SECRETARY WEBB: Senator Beverly.

11 SENATOR BEVERLY: Aye.

12 SECRETARY WEBB: Beverly Aye.

13 Senator Mello.

14 SENATOR MELLO: Aye.

15 SECRETARY WEBB: Mello Aye.

16 Senator Petris.

17 SENATOR PETRIS: Aye.

18 SECRETARY WEBB: Petris Aye.

19 Senator Craven.

20 SENATOR CRAVEN: Aye.

21 SECRETARY WEBB: Craven Aye.

22 Senator Roberti.

23 Four to zero.

24 [Thereupon the final vote for
25 confirmation was 5-0, as Senator
26 Roberti's aye vote was added
27 pursuant to Senate Rule 28.7]
28

1 SENATOR CRAVEN: Nomination to the Floor.

2 Congratulations, Gus.

3 MR. OWEN: Thank you.

4 SENATOR BEVERLY: I hesitated, Mr. Chairman. I was
5 waiting to hear from Mr. McCracken. I didn't know what he had
6 in mind.

7 SENATOR CRAVEN: No, I think Mr. McCracken has
8 retired, actually.

9 MR. MCCRACKEN: Again.

10 SENATOR CRAVEN: Again, that's right.

11 MR. MCCRACKEN: I was part of that former
12 administration that Mark was talking about.

13 [Laughter.]

14 SENATOR CRAVEN: Very good. Always nice to have you
15 here.

16 Next is Yvonne Ramos Richardson, Member, Agricultural
17 Labor Relations Board.

18 MS. RICHARDSON: Good afternoon, Senator Craven.
19 Welcome back.

20 SENATOR CRAVEN: Good afternoon. Nice to see you
21 again.

22 MS. RICHARDSON: Members of the Committee, I'm here
23 once again before you seeking your positive recommendation for
24 confirmation to the position of member of the Agricultural Labor
25 Relations Board.

26 I was first appointed to the Board on March 1st,
27 1987. And at that time, I brought to the Board the expertise of
28

1 a labor relations practitioner with over 15 years of experience
2 in personnel labor relations, including nine years as the chief
3 negotiator at both the county and state levels.

4 I had also served for two and a half years in the
5 Yolo County Arbitration Panel. I had been appointed by the
6 Board of Supervisors. That Panel rendered final and binding
7 decisions on labor disputes between unions and management, and
8 also on disciplinary matters, including all county employees.

9 In the last five years that I have served on the
10 Board, I have participated in 93 decisions and over 150 Board
11 orders. Every case has been challenging and unique, and I have
12 only let the facts and merits of the case guide me in reaching
13 my final decision.

14 The Agricultural Labor Relations Act was passed by
15 this Legislature and signed into law for the purpose of ensuring
16 peace in the agriculture fields by guaranteeing collective
17 bargaining rights for the farmworkers, and to provide for a
18 process of the resolution of labor disputes.

19 The ALRB was needed then and it's needed now. The
20 need to organize and to be represented by the farmworkers is
21 still there, necessitating the conduct of elections. Labor
22 disputes still arise between the parties, necessitating the
23 adjudication of unfair labor practice charges. And we still see
24 violence out there in the fields which require both the
25 intervention of the General Counsel and the Board.

26 The body of law that has been developed by this Board
27 over the last 17 years has served the farmworkers, the unions,
28

1 the growers, and the people of California well. I feel proud to
2 have served on the Board, and I'm even more proud of my record.

3 For all the above reasons, I seek your positive
4 recommendation for my confirmation. And if there are any
5 questions, I'll be glad to answer them.

6 SENATOR CRAVEN: Very good, thank you very much.

7 Is there anyone in the audience who wishes to speak
8 in favor of the appointee? Yes, sir, would you come forward.
9 State your name.

10 MR. VELLANOWETH: Senator Craven, welcome back.

11 SENATOR CRAVEN: Thank you.

12 MR. VELLANOWETH: Senator Mello, Senator Beverly,
13 Senator Petris, my name is Roberto Vellanoweth.

14 I'm here in support of Yvonne Ramos Richardson,
15 representing the American G.I. Forum. I've been here before
16 representing the American G.I. Forum and other organizations.

17 In this particular case, I'm very proud to support
18 the confirmation of Yvonne, having known her to be a very
19 encouraging person to the farmworker. She is fair, dependable,
20 and I strongly support her confirmation.

21 Thank you very much.

22 SENATOR CRAVEN: Thank your very much.

23 Anyone else? Anyone in opposition? There appears to
24 be no one.

25 Senator Mello.

26 SENATOR MELLO: Just a couple of questions.

27 We had a chance to talk yesterday, and I learned the
28

1 Board is now down to two members. Yourself, and who's the other
2 person?

3 MS. RICHARDSON: I am pleased to say that we're now
4 back to three.

5 SENATOR MELLO: One got appointed today; right?

6 MS. RICHARDSON: Yesterday.

7 SENATOR MELLO: Son of a gun. Hopefully, that will
8 get --

9 MS. RICHARDSON: We do have a quorum.

10 SENATOR CRAVEN: This is what former Senator Ellis
11 was a member of; right?

12 MS. RICHARDSON: Yes, and he left on June 30th, and
13 his replacement was appointed yesterday.

14 SENATOR MELLO: Member Jim Nielsen?

15 SENATOR CRAVEN: Is Jim Nielsen on that now?

16 MS. RICHARDSON: No, Jim Nielsen left in February.
17 His name was removed, and so --

18 SENATOR MELLO: Who's the other gentleman that was
19 there with you prior to the appointment?

20 MS. RICHARDSON: Jim Ellis.

21 SENATOR MELLO: I mean, you said you were down to two
22 members prior to --

23 MS. RICHARDSON: Oh, Chairman Bruce Janigian and
24 myself, and now we're up to -- back to three.

25 SENATOR MELLO: The questions I have, I went over
26 some of these things with you. What I'm concerned about is just
27 the overall, the Board had -- well, the way it was set up -- I
28

1 asked you about the legislative intent of the Board. You quoted
2 me a section that was not the one I was thinking of. I was
3 thinking of 1140.2, which says clearly:
4

5 "It is hereby stated to be the
6 policy of the State of California to
7 encourage and protect the right of
8 agricultural employees to full
9 freedom of association, self-
10 organization, and designation of
11 representatives of their own
12 choosing, to negotiate the terms and
13 conditions of their employment, and
14 to be free from the interference,
15 restraint, or coercion of employers
16 of labor, or their agents, in the
17 designation of such representatives
18 or in self-organization or in other
19 concerted activities for the purpose
20 of collective bargaining or other
21 mutual aid or protection. For this
22 purpose this part is adopted to
23 provide for collective bargaining
24 rights for agricultural employees."

25 So, it's definitely slanted towards employees. And
26 yet what is happening is, employees are not utilizing the ALRB
27 Board, you know, for trying to resolve their issues.

28 I mean, I represent an agricultural area; I know what

1 is happening there, because I meet with different -- I meet with
2 growers and with farmworkers, trying to keep peace and harmony
3 there in the fields.

4 As you pointed out, you said you supported 60 percent
5 of the cases that you were involved in were in the benefit of
6 the workers, and the rest were either -- they fell in other
7 categories, but I know like the UFW, that's lost a lot of
8 members, and they're not even hardly appealing, or they're not
9 even bringing in complaints before the Board. They're using a
10 boycott or other means.

11 So, I mean, what's wrong? The intent of the
12 Legislature was to set this up as a Board that would be there to
13 resolve and protect both the workers and agriculture, and allow
14 the process function.

15 But what I see happening here is a deterioration of
16 the Board, and I guess the Budget Committee just cut it.

17 Senator Craven, the reason why they got five members,
18 the Board, and I guess the Budget Committee now is cutting it
19 down to three members, so either the workload is cut down, or it
20 just seems like they're getting less involved. And at one time,
21 they were really involved in a lot of labor.

22 So, I just want to hear again your comments about
23 what direction you think the Board is going, and if you think --
24 and the reason I took the liberty of reading that section is, I
25 think the Board is not operating collectively. I'm not saying
26 you individually, but collectively they're not operating in the
27 manner in which the Legislature put forth when they adopted the
28

1 ALRB back in, I think, 1975 or '6.

2 MS. RICHARDSON: Yes, I -- I apologize, because
3 yesterday when we were chatting in your office, you had
4 mentioned about the preamble, so that's what I -- what I read.
5 I did not go any further.
6

7 But yes, the argument or the statement that the Board
8 has not been responsive to the -- to the farmworkers, I have
9 heard that statement for the over five years that I have been on
10 the Board.

11 I will share with the rest of the Committee those
12 statistics that I shared with Senator Mello in his office
13 yesterday afternoon. I -- in the five years that I have been on
14 the Board, I have participated in 93 Board decisions. This only
15 half of the Board's workload. We have something also called
16 Board orders. And in the time that I have been there, we have
17 issued over 150 of those.

18 And we don't always get credit for that. People
19 seem to focus on the published decisions.

20 Of those 93 decisions in which I participated in, 60
21 percent of those favored the farmworkers and/or the union
22 representing the farmworkers; 11 percent is what I call split
23 decisions, maybe not -- neither side got everything that they
24 wanted; 16 percent, one-six, favored the employer; and 13
25 percent is what I called miscellaneous, they were things such as
26 the court had ordered, after reviewing our decision, the court
27 had ordered us, the Board, to change a portion of our decision,
28 so we had to reissue a new Board order. Or, they were decisions

1 correcting clerical errors because we had left something out of
2 the previous decision. And one of those was a remand to an
3 administrative law judge seeking further information.
4

5 I'm very proud of my record, and I feel that I have
6 done the job that the law calls for in terms of administering
7 that law to protect -- to ensure the peace in the labor fields
8 and to guarantee those collective bargaining rights for the
9 workers.

10 I have also heard the allegation that -- that the
11 Board is not being utilized. I did -- I went back, looked at
12 some of the figures. I have some figures to share with you.

13 In the last five years that I have been there, close
14 to 1500, or to be exact 1,481 unfair labor practice charges have
15 been filed with the Board. As you well know, there's a
16 distinction. There's two offices to the Board. There's the
17 Office of the General Counsel, and there's the Office of the
18 Board.

19 And under our statute, the General Counsel has the
20 final authority in investigating charges and issuing a
21 complaint. So, unless the charges go to complaint, there's not
22 a possibility of that case coming before the Board. And that's
23 by statute, and that's the right.

24 But in any case, there has been close to 1500 unfair
25 labor practice charges filed with the General Counsel's Office.
26 A large percentage of those have been filed by the union, and a
27 large number of those have been filed by the United Farmworkers.

28 During those five years, also we have conducted 124

1 elections. I have already said that we have issued 103 Board
2 decisions, over 150 Board orders. We currently have 46 open
3 compliance cases.
4

5 I think that the Board is working, is doing its job.
6 Yes, we have seen a drop in the unfair labor practice charges
7 that have been filed with the Board.

8 I went back and I looked at the number of charges
9 that have been filed over the last 16 years. The average filed
10 per year is 668. As of the last year that we had a record, we
11 were up to 394. We had seen an increase of 54 percent in the
12 unfair labor practice charges that had been filed in the
13 previous two years.

14 We have -- we have to realize that the last few years
15 has [sic] been hard on agriculture. And because it has been
16 hard on agriculture, it has been hard on the farmworkers. We
17 had the drought; we had the freeze, which reduced the number of
18 acres that were available to raise crops. That created an
19 overabundance of farmworkers. And in bad economic situations,
20 everybody, not just in the agricultural fields, everybody wants
21 to be able to keep their job. It makes it hard for the unions
22 to come in and organize, and we have had a large number of what
23 we call notice to take action filed by the unions. But once
24 they come to the fields, it's hard for them to be able to get
25 signatures, and you need at least 50 percent of the signatures
26 of the people employed in order to petition for an election.
27 So, it's been hard.

28 We hope --

1 SENATOR MELLO: I read recently where there was
2 these, you know, make whole remedies, and claims were filed,
3 they go on and on and on. Some are about 15 years old, I guess.
4

5 But recently, there was one settled, I think, in
6 Imperial Valley. The claim was for \$5-6 million, and it was
7 settled for 100,000, or something like that.

8 MS. RICHARDSON: I am not aware of a settlement that
9 went down from five to 100,000. I don't have all the
10 information.

11 SENATOR MELLO: A couple hundred thousand, something
12 like that.

13 It seems like that they're making, you know,
14 settlements to -- and of course, these are money due the
15 farmworkers.

16 I just have one last point. I was reading out of --

17 MS. RICHARDSON: I really wanted to share with you,
18 on that subject, that in the last five years that I have been
19 there, we have disbursed \$6.4 million to 5,779 discriminatees.

20 One of the frustrations that I have is that it does
21 take time from the initial event to actually case come to us for
22 the disbursement of the money.

23 Under the Act, the final Board decisions can be
24 appealed to higher courts. And we have a two-prong system.
25 First we determine the liability that results in a final Board
26 decision, and after all the appeal processes are exhausted, it
27 comes back to us for -- to determine the amount owed.

28 That also results -- could result in a final Board

1 decision that can also appealed [sic] all the way to the
2 California Supreme Court and to the U.S. Supreme Court.

3
4 When all the processes have been exhausted, then
5 we're ready to sit down and say, "Okay, this is the money that
6 you owe." Interest is tacked on to that amount of money.

7 Sometimes it's hard to collect the money. Sometimes
8 the employers have gone into bankruptcy. In those situations,
9 it's a judgment call in terms of saying we're going to go after
10 everything there, but if there's not everything there to
11 collect, we have to try to do the best to collect what we can.

12 SENATOR MELLO: Let me ask you on a final point, and
13 that is, in our folder here, from Mr. Michael Lyons, the
14 President of the Fresh Fruit and Vegetable Workers Local 78-B,
15 he says, quote, that you have demonstrated by your association
16 with a Mr. Scott Wilson of Fastiff and Tichy that your ethics on
17 the Board are in question. And he says that you:

18 "... informed Mr. Wilson ... two
19 (2) weeks prior to a complaint being
20 issued that the result would not be
21 in favor of his client. It is well
22 known that ... Ramos Richardson has
23 discussed the Bud Antle ..."

24 company's, that in my -- he headquartered in Salinas, my area:

25 "Bud Antle ... case with ... Scott
26 Wilson and Mr. Wilson's brother, ...
27 Marty Wilson, who is on Governor
28 Wilson's staff."

1 MS. RICHARDSON: If I understand correctly, the
2 letter alleges that I discussed a particular case with a Mr.
3 Scott Wilson and a Marty Wilson?
4

5 SENATOR MELLO: Yes, it's the last --

6 MS. RICHARDSON: That is -- that is not true.

7 SENATOR MELLO: In other words, it's not a truth.
8 It's the last item down there.

9 MS. RICHARDSON: This is totally, totally false. I
10 have never met with Mr. Scott Wilson. I have not discussed --
11 because I have never met with Mr. Wilson, or I have not
12 discussed this case with Mr. Wilson over the phone.

13 I -- this is not so. This is not so.

14 SENATOR MELLO: Just part of a letter -- Senator
15 Beverly pulled it out; I have it in my folder here, too, from
16 Mr. Lyons to Jack Henning. He's the Executive Treasurer of the
17 AFL-CIO, where the same -- same charges are being made.

18 So you deny?

19 MS. RICHARDSON: Yeah. I deny completely.

20 Mr. Scott Wilson, the only thing I know about Mr.
21 Scott Wilson is that he's an attorney. The only thing that I
22 know about Mr. Scott Wilson is that he's an attorney that has
23 represented clients before the Board, but I have never, and I am
24 emphatic about this, I have never discussed any case with
25 Mr. Wilson. I have never met personally with Mr. Wilson to
26 discuss a case or anyone else.

27 SENATOR MELLO: Okay, thank you. We'll just take it
28 that you disagree with the statement made here.

1 MS. RICHARDSON: Absolutely, absolutely. This is not
2 true.

3 SENATOR MELLO: Thank you.

4 SENATOR CRAVEN: Thank you, Senator Mello.

5 Is there anyone who wishes to speak in opposition?

6 There appears to be none.

7 Any Members of the Committee wish to make any
8 statement?

9 SENATOR BEVERLY: Are you ready for a motion?

10 SENATOR CRAVEN: Yes.

11 SENATOR BEVERLY: Move we recommend confirmation.

12 SENATOR CRAVEN: Senator Beverly moves.

13 Call the roll, please.

14 SECRETARY WEBB: Senator Beverly.

15 SENATOR BEVERLY: Aye.

16 SECRETARY WEBB: Beverly Aye.

17 Senator Mello.

18 SENATOR MELLO: Aye.

19 SECRETARY WEBB: Mello Aye.

20 Senator Petris.

21 SENATOR PETRIS: Aye.

22 SECRETARY WEBB: Petris Aye.

23 Senator Craven.

24 SENATOR CRAVEN: Aye.

25 SECRETARY WEBB: Craven Aye.

26 Senator Roberti.

27 Four to zero.
28

1 [Thereupon the final vote for
2 confirmation was 5-0, as Senator
3 Roberti's aye vote was added
4 pursuant to Senate Rule 28.7]
5

6 SENATOR CRAVEN: Very well, we move you to the Floor.

7 MS. RICHARDSON: Thank you very much. I appreciate
8 it.

9 SENATOR CRAVEN: Thank you. Nice to see you again.
10 Let's take ten minutes.

11 [Thereupon a brief recess was taken.]

12 SENATOR CRAVEN: We're back in order. We will go to
13 Otis Thurman, Warden, California State Prison at Lancaster.

14 I try to give that the California pronunciation. I
15 don't know how close I get. Do you know what I mean by that?

16 MR. THURMAN: That's close enough.

17 SENATOR CRAVEN: Where I come from, they call that
18 Lankester, and that's Pennsylvania.

19 MR. THURMAN: Thank you, Senator Craven, the rest of
20 the Senators, for allowing me to make my presentation. I'm also
21 thanking the Senate Committee for my prior confirmation in 1986
22 at the California Institution for Men.

23 I'd like to begin by saying that I'm beginning my
24 31st year with the Department of Corrections. I've worked all
25 over the State of California in various capacities, beginning as
26 a correctional officer in various classifications, parole agent,
27 administrative and management positions for the last 20 years
28 within the Department of Corrections.

1 I served the last six years at the California
2 Institution for Men. Some of the things I'd like to discuss in
3 terms of my tenure as the Warden of the California Institution
4 for Men, we effectively managed a severely overcrowded and aging
5 facility with certain areas of the facility housed to a capacity
6 over 300 percent. We provided leadership in obtaining hospital
7 licensure for CIM's 80-bed acute care hospital; developed a
8 model operational housing and program facility for over 300
9 HIV-AIDS inmates; directed the design and construction of a new
10 visiting processing center; worked in conjunction with Paroles
11 and Community Services Division in developing and implementing a
12 return to custody program.

13 Under my direction, the CIM Reception Center
14 processed a higher number of inmates on a monthly basis than
15 most other state prisons process in a year, approximately 2500
16 cases per month.

17 During my six-year tenure as Warden of CIM, there
18 were no major inmate disturbances with that high of
19 overcrowding.

20 With the responsibility for institutional staffing of
21 over 2,000 employees, we consistently met and exceeded all the
22 affirmative action hiring mandates during my tenure as Warden at
23 the California Institution for Men.

24 Currently, and since August of '91, I was appointed
25 as the Warden, acting, of the California State Prison at
26 Antelope Valley in Lancaster, where I've been currently working
27 for the last year, working with the community and in trying to
28

1 provide them information in terms of how our institution's going
2 to function in that committee.

3 Last week, I was appointed for -- on a task group for
4 strategic planning for the next five years in the Lancaster
5 community, so I'm really pleased with the progress in working
6 with the Lancaster community

7 SENATOR CRAVEN: Very good, and thank you very much,
8 Mr. Thurman.

9 Does anyone in the audience wish to speak in favor of
10 the appointment? One lady. Come forward, please. State your
11 name.

12 MS. MOLINA: My name is Bea Molina. I am the former
13 immediate past president of the Mexican-American Political
14 Association, as well as one of the founding members of the
15 Hispanic Law Enforcement Task Force, which represents seven of
16 the Hispanic law enforcement-related organizations.

17 In front of you, you have a letter of endorsement
18 from my organization, and I'm here to say that we have a lot of
19 confidence in this individual, that he is willing to take the
20 kind of leadership that we need at this time to address the type
21 of issues that impact our community and the inmate population.

22 Saying that, you know, I'm here to answer any
23 questions, but we are fully supporting Mr. Thurman.

24 SENATOR CRAVEN: Very good. It's nice to have you
25 here again. You've been before us before, and I very well
26 recall.

27 Does any Member of the Committee have any questions
28

1 of this lady? There appears to be none.

2 Thank you very much, dear.

3 Yes, sir, you're next.

4 MR. LANE: Good afternoon to the distinguished
5 Committee Chairman and the rest of the Senators of this
6 Committee.

7 SENATOR CRAVEN: Thank you on behalf of us all.

8 MR. LANE: I would like to take this opportunity to
9 introduce myself. My name is Regis Lane. I'm currently a
10 correctional counselor at Corcoran State Prison.

11 First of all, I would like to say that this territory
12 is familiar to me. I was a Sergeant-at-arms here six years ago,
13 and it's always a good pleasure to come back.

14 But more than that, I'm honored to be here on behalf
15 of Otis Thurman. I am much -- I am a union representative for
16 Corcoran State Prison at the present time, during my tenure in
17 the Department of Corrections, I've come to know Otis Thurman,
18 both personally and professionally. He has provided great
19 leadership for not only the Department and management, but also
20 in dealing with union members and union matters. He is
21 exemplary as far as handling problems with issues and union
22 issues, and we have never had any problem with Mr. Thurman as
23 far as handling our issues in rank and file.

24 So, I would like at this time to represent the
25 Corcoran State Prison Local Chapter in endorsing and supporting
26 Otis Thurman for your consideration of a confirmation as Warden
27 for Lancaster.
28

1 SENATOR CRAVEN: Senator Petris.

2 SENATOR PETRIS: I want to talk about your job for a
3 minute.

4 MR. LANE: Okay.

5 SENATOR PETRIS: It may have a bearing on your
6 judgment in this direction.

7 [Laughter.]

8 SENATOR PETRIS: Correctional counselor counsels the
9 inmates, I assume?

10 MR. LANE: Yes, sir.

11 SENATOR PETRIS: In what subjects? On how to get
12 along in prison, or planning for the future when they get out?
13 What subjects do you --

14 MR. LANE: Actually, counselor is somewhat viewed as
15 a misnomer.

16 Basically we are case workers at this time because of
17 the -- the overcrowding at the present state in the prison
18 system.

19 We counsel inmates. Sometimes it's personal.
20 They'll come in for personal counseling. A lot of times we'll
21 refer them to the proper -- to a psych., or to a minister. More
22 or less we counsel them on what they can do to obtain jobs, how
23 to go about signing up for pre-parole classes. We do the
24 classification work if they want a transfer, a hardship
25 transfer. We put them up for classification and make the
26 necessary recommendation for transfer to another institution.

27 SENATOR PETRIS: Do you counsel them on the rules of
28

1 the prison and how they should behave while they're in prison?

2 MR. LANE: Yes, sir. When they come into the
3 institution, we have a package that we give them, and we counsel
4 them concerning their -- their expected behavior at the
5 institution.

6 SENATOR PETRIS: When a person is up for parole, do
7 you file a statement? Are you required to file a statement with
8 respect to that application?

9 MR. LANE: Yes, sir. What the counselors do, we have
10 a caseload. And if a certain inmate on a caseload goes up to
11 the Board, we submit a Board report to the Board of Prison
12 Terms, making a recommendation concerning --

13 SENATOR PETRIS: Either for or against?

14 MR. LANE: For or against, yes, sir.

15 SENATOR PETRIS: How's your batting average?

16 MR. LANE: So far, none have been released.

17 SENATOR PETRIS: None have been released --

18 MR. LANE: No.

19 SENATOR PETRIS: -- that you have said, "Don't
20 release them"?

21 MR. LANE: Right. And most of the cases that I have
22 had are, and most of the cases that come up before the Board,
23 are murder cases. And that's -- and most of the cases, I have
24 recommended that they not be released at the present time.

25 SENATOR PETRIS: So in your file, there's no
26 recidivism problem. They don't come back because you won't let
27 them out?
28

1 MR. LANE: Not at all.

2 [Laughter.]

3 SENATOR PETRIS: Thank you.

4 SENATOR CRAVEN: Thank you very much. It's nice to
5 have you back with us, if only for a brief time, but we're all
6 very happy to see you doing so well in your career, and much
7 success in the future.

8 MR. LANE: Thank you.

9 SENATOR CRAVEN: Anyone else? Yes, sir. This is a
10 fellow that all of us know, this is Leon Ralph.

11 MR. RALPH: Good afternoon, Mr. Chairman and Members.

12 I am here representing the Association of Black
13 Correctional Workers, professional workers throughout the prison
14 system in California. I represent them as a consultant
15 lobbyist.

16 And I'm here in support of Mr. Thurman's nomination
17 based upon the information that -- and the support that he
18 enjoys throughout that organization. He is truly an outstanding
19 fellow.

20 I have not met him before today, but I have read his
21 record and have information that has come to me from the large
22 membership within the Association of Black Correctional Workers.
23 And it's all very supportive and all very positive.

24 So, we would strongly urge that you vote for,
25 approve, his reappointment to Warden.

26 Thank you. I'm available for questions if you have
27 any.
28

1 It's interesting to be on this side of the table,
2 gentlemen.

3 [Laughter.]

4 SENATOR CRAVEN: I've got a question that deals with
5 a bill I had up before Rules one time.

6 [Laughter.]

7 MR. RALPH: If I stay here too long, I might get a
8 lot of those.

9 SENATOR CRAVEN: All of us on this Committee have had
10 the good fortune of serving with Leon, and I remember him very
11 well since Nick, of course, is the senior, and Bob is next, then
12 myself, and then Henry. But I can recall listening, looking up
13 to him years ago, because he was kind of, you know, he carried a
14 big stick around here. He was really quite the fellow, and time
15 has not changed that at all.

16 Nice to see you, Leon.

17 MR. RALPH: Thank you so much, Mr. Chairman.

18 SENATOR BEVERLY: Mr. Chairman, I've heard about old
19 Assembly Rules Committee Chairmen going straight, but --

20 [Laughter.]

21 SENATOR BEVERLY: -- none of them joined the clergy.

22 Nice to see you.

23 MR. RALPH: It's interesting, Senator Beverly, that
24 you are now my Senator. I never knew that when I grew up, that
25 you'd be my Senator.

26 [Laughter.]

27 SENATOR CRAVEN: Oh, my.
28

1 MR. RALPH: What do we do now, right?

2 SENATOR CRAVEN: Why don't you bless him before you
3 leave.

4 [Laughter.]

5 SENATOR CRAVEN: Thank you, Leon, very much.

6 Yes, sir.

7 MR. RICH: Thank you, Senators. My name is Ted Rich,
8 and I represent Ted Rich.

9 I am a product of those -- those ten schools that
10 rank below California that you were talking about earlier, and I
11 happen to have grown up as a kid, though, where they pronounced
12 Lancaster a little bit differently, having grown up around
13 Chester, Pennsylvania.

14 SENATOR CRAVEN: My gracious. I used to work there.

15 MR. RICH: So, I know how they pronounce it.

16 I'm here to strongly support the confirmation of
17 Mr. Thurman. I do know him. I had the fortune of having him in
18 the earlier stages -- by the way, I've had 32 years in the
19 criminal justice system myself -- and Mr. Thurman, I had the
20 pleasure of having this man work for me at one time, so I know
21 his work ethics.

22 I also know he embodies the total spirit of the
23 things that we talk about that we would hope that serve as role
24 models for people. This gentleman went to school, worked nights
25 and went to school, and got his education, and got his degree,
26 and furthered his career while in the process of raising a
27 family. So, he has all of those qualifications that we -- that
28

1 we like to see in people, and we talk about that we would like
2 -- that we think embodies the American way of doing things.

3 And he has a distinguished career in the criminal
4 justice field, and I am happy to strongly recommend that you
5 confirm him for the Warden's position.

6 Thank you for your patience.

7
8 SENATOR CRAVEN: Thank you very much for your
9 appearance. My fellow Pennsylvanian, Senator Beverly, and I
10 welcome a landsman. Do you know what a landsman is? Possibly
11 not. I could ask Felice; she would know. That's a countryman.
12 That's German or Yiddish, whichever way you want to look at it.

13 All right, is there anyone who wishes or -- well, I'd
14 better stay straight on this one -- is there anyone who wishes
15 to speak in opposition to the appointment? There appears to be
16 none.

17 I was going to say does anyone have the audacity;
18 everything was glowing up to this point.

19 [Laughter.]

20 SENATOR BEVERLY: Move we recommend confirmation.

21 SENATOR CRAVEN: Senator Beverly moves.

22 Call the roll, please, Pat.

23 SECRETARY WEBB: Senator Beverly.

24 SENATOR BEVERLY: Aye.

25 SECRETARY WEBB: Beverly Aye.

26 Senator Mello.

27 SENATOR MELLO: Aye.

28 SECRETARY WEBB: Mello Aye.

1 Senator Petris.

2 SENATOR PETRIS: Aye.

3 SECRETARY WEBB: Petris Aye.

4 Senator Craven.

5 SENATOR CRAVEN: Aye.

6 SECRETARY WEBB: Craven Aye.

7 Senator Roberti.

8 Four to zero.

9 [Thereupon the final vote for
10 confirmation was 5-0, as Senator
11 Roberti's aye vote was added
12 pursuant to Senate Rule 28.7]

13 SENATOR CRAVEN: Confirmation to the Floor.

14 Thank you very much.

15 [Thereupon this portion of the
16 Senate Rules Committee hearing
17 was terminated at approximately
18 4:08 P.M.]

19 --oo0oo--
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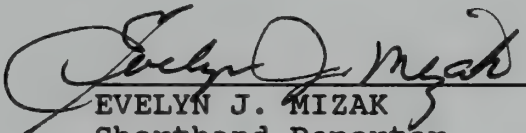
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of August, 1992.


EVELYN J. MIZAK
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HEARING
SENATE RULES COMMITTEE
STATE OF CALIFORNIA



STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

TUESDAY, AUGUST 11, 1992
2:05 P.M.

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SENATE RULES COMMITTEE
STATE OF CALIFORNIA

HEARING

STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

TUESDAY, AUGUST 11, 1992

2:05 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter

APPEARANCES

MEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR NICHOLAS PETRIS

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

MARZ GARCIA, Director
Office of Administrative Law

HARVEY ROSENFELD, Chair
Voter Revolt

JOHN GARAMENDI, Commissioner
Department of Insurance

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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: We now have before us a continuation of the hearing of a couple of months ago, the Governor's appointment of Mr. Marz Garcia, Director of the Office of Administrative Law.

Senator Garcia is here. Please come forward.

MR. GARCIA: Thank you, Senator Roberti. Good afternoon, Members.

I was here a couple of months ago. Senator Craven wasn't here at the time.

I think that the -- there was a question about my being sent to the Floor of the Senate, and I think in large part -- and this is for the benefit of Senator Craven; most of you are familiar with the dispute between OAL and the Department of Insurance -- the Department of Insurance has some regulations that it feels are necessary to process rate approvals and also rebates.

We have no problem with the regulations in general, except for two very important provisions, and one is a constitutional issue. There is a decision that the California courts call Cal Farm Insurance, which upheld Proposition 103; made a few minor changes in it. In that decision, they said that the Commissioner had the authority to go ahead and hold hearings and do whatever was necessary to process rate approvals and rebates, but it had to guarantee the rate applicants, meaning the insurance companies, an opportunity to introduce any

1 evidence that they felt was necessary to making their case, and
2 establishing that under the regulations that the rate might be
3 confiscatory.

4 The regulations deny the rate applicant -- the rate
5 applicant the ability to introduce that evidence, and for that
6 reason they have not passed muster with OAL under the standards
7 that we're mandated to follow.

8 The Governor overruled our decision on the
9 regulations, not disagreeing with the decision, with our
10 decision or the legal merits of our case, but in order to get
11 the issue before the courts.

12 We thought we had them there until about a week or so
13 ago, when we invited the Department of Insurance to sue OAL.
14 They did do that. We thought that that would join the issue.
15 The Department of Insurance never served us with the papers, and
16 then dropped the lawsuit last week.

17 In the meanwhile, a federal judge abstained from a
18 case that would have dealt with this issue, but in doing so,
19 took a look at the regulations and, in large part, agreed with
20 OAL's position.

21 So, we think that we are legally right on the merits.
22 It's that political controversy that I think has jeopardized my
23 confirmation and held me in this Committee.

24 Otherwise, I think I am very well qualified to
25 continue to serve as the Director of the Office of
26 Administrative Law. I am a lawyer. I understand the government
27 process. I have served in the Senate, in the Legislature, have
28

1 a reputation, and I think if you focus on the merits of my
2 qualifications, I should be sent to the Floor of the Senate.
3 And I think that in that case, I will be confirmed.

4 CHAIRMAN ROBERTI: Thank you, Senator.

5 Is there anyone here to speak on the issue of Marz
6 Garcia's qualifications? We will get to the point of the
7 dispute over the implementation of Proposition 103 in a moment,
8 but I want to make sure, either one way or the other.

9 I think we can stipulate for the record, Senator,
10 that your qualifications are outstanding, and your reputation is
11 outstanding.

12 However, Proposition 103 is an issue of enormous
13 consequence, as you know, to the people of the State. And
14 therefore, it is a matter that is part of the consideration on
15 the confirmation.

16 Is there anyone here in opposition to Marz Garcia's
17 confirmation as regards the implementation of Proposition 103?
18 Mr. Rosenfield and Commissioner Garamendi.

19 MR. ROSENFELD: Mr. Chairman, good afternoon,
20 Members of the Committee.

21 My name is Harvey Rosenfield. I'm the Chair of Voter
22 Revolt, the grassroots organization which sponsored Proposition
23 103.

24 Thank you for the opportunity to testify here today.

25 Mr. Chairman, the old cliché goes that we are a
26 government of laws not men. But over the last three and a half
27 years, the California consumers and taxpayers and voters have
28

1 witnessed a government of one woman, Roxani Gillespie, who, for
2 two years, single-handedly sabotaged the implementation of
3 Proposition 103 in a cooperative arrangement with the insurance
4 industry from which she had come.

5 The voters, foreseeing that that might be a
6 possibility, provided in Proposition 103 for an elected
7 Insurance Commissioner, who would implement the measure
8 correctly, beginning in 1990, the 1990 election.

9 Since that time, once again, the cliché government of
10 laws not men has been proven wrong, this time by Mr. Marz
11 Garcia, who has taken Roxani Gillespie's place as a friend of
12 the insurance industry to implement the will of the industry
13 rather than the will of the people.

14 We're supposed to be a government of the people, by
15 the people, and for the people. But when it comes to
16 Proposition 103 for the last three and a half years, one way or
17 another, the insurance industry has made this a government of
18 the State Farms, for the All States, by the Aetnas, working
19 through appointed, not elected, bureaucrats in the executive
20 branch of the California government.

21 The voters could not recall Roxani Gillespie. She
22 was above the law for two years, and the voters could do nothing
23 but join with Voter Revolt in lawsuits that we filed to force
24 Gillespie to implement the law, at the same time to defend 103
25 against Gillespie's efforts when she did act.

26 Although we could do nothing about Roxani Gillespie,
27 today the Senate Rules Committee can and must do something about
28

1 the present Director of the Office of Administrative Law. For
2 over a year, Mr. Garcia has blocked critical regulations after
3 intensive lobbying by the insurance industry.

4 I would like to speak to some of the objections that
5 Mr. Garcia has raised through his decisions to the
6 implementation of Proposition 103, the effect of which has been
7 to totally derail it most recently.

8 His first -- his first objection was that there was
9 no necessity, quote, "no necessity" in Commissioner Garamendi's
10 regulations to order \$2.5 billion in rollbacks for the
11 assessment of fees on insurance companies to cover the
12 administrative costs of the Department of Insurance
13 implementing Proposition 103 and the rollbacks.

14 Proposition 103 itself, in black and white, states
15 that the Department shall assess insurance companies fees to
16 cover the cost of administrating the initiative. How they could
17 say there's, quote, "no necessity", well, I leave that to you.

18 Number two, Mr. Garcia and the OAL have argued --
19 have ordered in blocking the rollback regulations that the
20 insurers did not have an opportunity for a fair hearing on their
21 arguments.

22 This is a laughable, or would be a laughable,
23 assertion if it weren't such a tragic misstatement of the last
24 three and a half years. Insurers have had their day in court.
25 In fact, by our count, they've had about 1,095 days in court,
26 including hundreds of days of hearings in which the insurance
27 companies hired lawyers at \$500 an hour to file voluminous
28

1 briefs and expert testimony, all of which argued that
2 Proposition 103 should never have passed. Every single nuance
3 of Proposition 103 has been addressed in volumes of briefs in
4 this -- in this lawyer extravaganza mounted by the insurance
5 industry.

6 They are still trying, three years later, to -- to
7 re-argue the results of the 1988 election with thousands of
8 pages of frivolous testimony that would fill the entire space in
9 this room.

10 To suggest that the insurance companies have not had
11 a fair hearing is yet another insult added to injury to the
12 people of this state, who have watched apparently government
13 unable to act, paralyzed -- paralyzed by lawyers for the
14 insurance industry.

15 A third assertion by the OAL and Mr. Garcia as an
16 excuse for blocking the rollback regulations is that the
17 regulations lacked, quote, "clarity". The reality is that these
18 regulations are very specific and detailed. They -- they
19 utilized the preceding two years of testimony under Insurance
20 Commissioner Gillespie, and then another eight months of new
21 hearings and testimony conducted by the elected Insurance
22 Commissioner, Mr. Garamendi.

23 The insurance industry knows exactly what these
24 regulations mean. That's why they have hired lobbying firms to
25 hammer the OAL, lobby the OAL, and convince the OAL to undermine
26 these regulations. There's nothing unclear about these
27 regulations. The insurance companies don't want to turn over
28

1 \$2.5 billion rollbacks to the consumers and voters of this
2 state. And so, they have sought and found a friend in state
3 government willing to block that amount of money.

4 I can tell you what Mr. Garcia's motivation is in
5 blocking these regulations. It has nothing to do with clarity,
6 necessity, or the opportunity of insurers to have a fair
7 hearing.

8 His motivation was revealed in a speech made to an
9 insurance agents audience in June, when he said that the reason
10 why -- and if you'd like to see it, I have a copy of the news
11 clip from it -- he vetoed the regs because they were, quote,
12 "confiscatory". That is the legal term, the legal basis, for
13 the entire insurance industry argument against Prop. 103's
14 rollbacks, that they will deprive the insurance companies of a
15 profit. The companies can't give a profit and still operate in
16 this state.

17 That conclusion -- that conclusion is the entire
18 point of these regulations, but Mr. Garcia has decided to
19 appoint himself as the judge to second-guess the Insurance
20 Commissioner that the voters said would decide that issue.
21 Mr. Garcia was appointed to the office of Director of OAL. He
22 was not appointed to the Superior Court or Supreme Court. His
23 opinion on whether these regulations violate the constitutional
24 rights of the insurance companies is irrelevant. It's none of
25 his business whether they do or they don't.

26 Now, I want to here mention two points that Mr.
27 Garcia just said. He said that a federal court judge agreed
28

1 briefs and expert testimony, all of which argued that
2 Proposition 103 should never have passed. Every single nuance
3 of Proposition 103 has been addressed in volumes of briefs in
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26 these regulations. There's nothing unclear about these
27 regulations. The insurance companies don't want to turn over
28

1 of the Insurance Commissioner, who the voters said would
2 implement the initiative.

3 I don't think Mr. Garcia is going to mind when you
4 vote to reject his appointment. I'm told that he hasn't even
5 been in his office for the last two months.

6 Today, the Senate should reject Mr. Garcia, this
7 appointment that never should have been made, and then, as
8 Senator Roberti suggested in the last hearing on this matter,
9 the Senate should go on and eliminate the Office of
10 Administrative Law, not just its funding, but its authority. In
11 the midst of the state's budget crisis, the taxpayers cannot
12 afford a Dan Quayle-style shadow government operating in our
13 state government, whose mission it is to carry out the will of
14 the special interests.

15 I respectfully, therefore, urge on behalf of Voter
16 Revolt and its 300,000 members in cities throughout this state,
17 that Mr. Garcia's appointment be rejected.

18 I thank you very much for your willingness to hear
19 our testimony.

20 CHAIRMAN ROBERTI: Thank you, Mr. Rosenfield.

21 Any questions?

22 SENATOR CRAVEN: Yes.

23 You confused me a little bit in some of the things
24 you said. I have a little trouble following it, and
25 unfortunately, I was not present at the original hearing.

26 But you made mention in a rather derogatory sense of
27 Mr. Garcia's direction of the Office of Administrative Law. And
28

1 you said that he should not -- you gave us all the
2 proscriptions, but what did he do that was any different than
3 any of his predecessors in that particular job do? What made
4 his tenure so abysmal, other than the fact that he didn't agree
5 with you?

6 MR. ROSENFELD: Senator, it's not that he did not
7 agree with us, with me, or with Voter Revolt.

8 He attempted to insert his own viewpoint and that of
9 the insurance companies into a matter that is strictly a
10 question of the Commissioner's authority. His -- the orders
11 that Mr. Garcia issued, which effectively have blocked the
12 rollback regulations a number of times in the past, did not,
13 number one, comply with Proposition 103; number two, they
14 exceeded the authority of his office. And by doing so, he has
15 effectively and single-handedly prevented a process that -- that
16 is very straight-forward and simple, and everybody understands
17 it, from going forward; a process that should have been
18 completed when Roxani Gillespie was still the Insurance
19 Commissioner.

20 SENATOR CRAVEN: Is the Director of the Office of
21 Administrative Law, is he not, or that person, in a position to
22 pass judgment on the correctness of something as it relates to
23 existing law?

24 MR. ROSENFELD: It is our view and the view of our
25 attorneys that Mr. Garcia's role, the Director -- the role of
26 the Director of the Office of Administrative Law is confined to
27 determine whether the regulations issued by the Department of
28

1 Insurance comply with procedural requirements of the
2 Administrative Procedures Act.

3 It is absolutely clear that it is not his position to
4 determine whether the regulations issued by the Department of
5 Insurance violate the constitutional rights of insurance
6 companies.

7 In the areas in which OAL has purported in its
8 decisions on the rollback regulations to examine procedural
9 compliance, they have -- the results are insupportable. For
10 example, I mentioned that point about no necessity to assess
11 fees on the insurance carriers, when in fact 103 specifically
12 provided that safeguard for the taxpayers.

13 Or, for example, the argument that they were deprived
14 of their right to -- the insurance carriers were deprived of
15 their right to present their case, which borders on a due
16 process constitutional argument. But giving the Director the
17 benefit of the doubt, it's an insupportable finding. If
18 anything has -- if anything, the history of 103, and the thing
19 that angers the voters so much, is that it has been manipulated
20 through administrative activity, and complaints, and
21 interventions by insurance companies. They have had their day
22 in court.

23 SENATOR CRAVEN: Your attorneys are representing your
24 organization, presumably are unified within the thought that
25 there's much that is not correct as it relates to decisions made
26 by OAL?

27 MR. ROSENFELD: Yes, Senator.
28

1 And by the way, I should say that I'm sorry you
2 weren't in the last hearing. I could provide you with the
3 extensive, you know, briefs that we have submitted.

4 SENATOR CRAVEN: No, that's not really necessary. I
5 appreciate your saying so.

6 What I was going to ask you in a very layman-like way
7 is, when you feel there has been such an egregious error on the
8 part of an individual, and that person has at least for a while
9 prevailed, what legal action have your attorneys taken? Do they
10 due?

11 MR. ROSENFELD: Senator, we are -- our attorneys are
12 representing Voter Revolt in approximately 65 lawsuits -- not
13 all of them, but as many of them as we can -- brought by
14 insurance carriers against Proposition 103.

15 It is -- it was our judgment that we would ultimately
16 have to go to court unless this situation was resolved,
17 hopefully by the elimination of what has become a generic
18 stumbling block in state government to the Department of
19 Insurance's effort to implement 103.

20 I can assure you that if for some reason OAL
21 continues, and for some reason the Governor appoints yet another
22 person who seems determined to interfere with 103, we will
23 certainly go to court to block that kind of involvement, and we
24 will win.

25 SENATOR CRAVEN: You say that in a sort prospective
26 approach: if they do this and that.

27 I understand you initially to say they have done
28

1 that.

2 MR. ROSENFELD: No, I did not. Our lawyers have not
3 sued to block.

4 SENATOR CRAVEN: Oh, no, no. They have created a
5 problem.

6 MR. ROSENFELD: Yes, you mean the Office of
7 Administrative Law?

8 SENATOR CRAVEN: Yes.

9 MR. ROSENFELD: Oh, it's a nightmare, but the
10 solution presented for -- the opportunity for you today is to
11 take all the corrective action that is necessary: remove this
12 individual from his office, and eliminate in the next few weeks
13 from the statutes of California the authority of this agency to
14 meddle in the affairs of the implementation of 103.

15 If that does not happen, and the next person there
16 continues this course of conduct, then we will take that action.

17 SENATOR CRAVEN: Well, I appreciate your explanation.
18 I thank you very much.

19 MR. ROSENFELD: Thank you.

20 CHAIRMAN ROBERTI: Thank you, Senator Craven.

21 Is there anyone else here? Commissioner Garamendi.

22 COMMISSIONER GARAMENDI: Mr. Chairman and Members of
23 the Senate, Mr. Garcia, I appreciate the opportunity to once
24 again appear before you and ask you to reject the nomination of
25 Mr. Garcia to serve as the Director of the Office of
26 Administrative Law. The second time that I've been here.

27 Since the June hearing, the record of Mr. Garcia and
28

1 his resistance to the will of the people has grown. It has not
2 lessened at all.

3 Last June, I documented before this Committee the ten
4 months of delay that Mr. Garcia has caused through his decisions.
5 In the packet that I just handed you there is an updated version
6 of that document. It has now gone to eleven months of
7 obstruction. You'll note the cross-out and the underlines as we
8 updated this.

9 Since June, two months have indeed passed, and we've
10 suffered at least one additional -- one and a half months of
11 additional delay in getting the consumers their refunds.
12 Following the June 8th rejection of my request to simply
13 maintain the status quo -- I requested this of the Office of
14 Administrative Law -- and thereby advance the judicial review by
15 asking them to renew the emergency regulations that were
16 reinstated by Governor Wilson, I submitted to the Office of
17 Administrative Law for approval the permanent regulations that,
18 by action of law, extended for 30 days the effectiveness of the
19 emergency regs, which Mr. Garcia had disapproved.

20 That additional one month period of time, that 30
21 days, enabled us to advance the ongoing hearings on the rollback
22 obligations for State Farm and Geico. It also enabled us to
23 secure another voluntary rollback from Progressive Insurance
24 Company, adding an additional \$51.2 million to the rebate checks
25 in the mail to California policyholders. These regulations have
26 thus far resulted in nearly \$300 million of rebates.

27 Unfortunately, on July 15th, Mr. Garcia again pulled
28

1 the plug on the successful, ongoing process of getting the
2 rebates done. He disapproved the permanent regulations that we
3 had earlier submitted. He repeated the same preposterous claim
4 that he had made previously; namely, that the insurance
5 companies had not had enough opportunities for hearing.

6 Now, never mind that there are 50,000 pages of
7 comments on the regulations themselves from the insurance
8 companies; 50,000 pages. Never mind that there were months of
9 hearings on the authorized rate of return and the other generic
10 determinations. And never mind that each insurer had the
11 opportunity to go for hearings under those regulations.

12 So far, there were at least two -- two weeks of
13 hearings that had occurred. I suppose that was just not enough
14 hearings for Mr. Garcia; not enough public comment.

15 Also, never mind that the insurers' legal arguments
16 on the point which Mr. Garcia had embraced are presently before
17 the courts, where they will receive a full and fair hearing.

18 In the meantime, while the lawyers write their
19 briefs, while the court studies them, Mr. Garcia says that all
20 other efforts to implement Proposition 103 must come to a halt,
21 and he has effectively done just that. He has halted the
22 negotiations and the rebate process, and he and the
23 administration stand fully in the public light as being
24 responsible for the derailment of the rebates.

25 Now, Mr. Garcia said earlier, as he has said before,
26 sue me. I don't understand what benefit the taxpayers of the
27 State of California have in seeing two state agencies sue each
28

1 other when, in fact, the case is already before a court, as it
2 is in the Twentieth Century case. We therefore declined to
3 carry out the suit that we had originally intended to bring.
4

5 There is clear evidence on the record of the last
6 twelve months that Mr. Garcia is intent upon derailing 103, and
7 that he is using extra legal proceedings and power not given to
8 him to accomplish that.

9 His power is restricted. He does not have the power
10 of analyzing the constitutionality of our regulations, but
11 rather a much narrower power. He cannot substitute his judgment
12 for mine. A court must determine whether my judgment on the
13 regulations is correct or not, and that is before the court.

14 Unfortunately, the court proceeding itself is
15 jeopardized by Mr. Garcia's action, wherein he denied both the
16 emergency regs and the permanent regs, giving the insurance
17 companies the opportunity, as they have already taken, to go to
18 court and say the whole thing is moot, and everything ought to
19 be thrown out because there are no regulations to discuss in the
20 first place.

21 We have successfully thwarted that attempt in the
22 courtroom thus are, and hopefully we'll be able to prevail.

23 Perhaps the end game move that Mr. Garcia has in mind
24 is to simply force us into a court setting and then remove our
25 ability to even argue the case before the court. I hope that
26 doesn't happen. We'll fight vigorously to prevent that from
27 happening, but it might. That would result in 103 being totally
28 derailed.

1 I think there is ample reason. I urge you to reject
2 him.

3 I'd be happy to answer any questions that you might
4 have.

5 CHAIRMAN ROBERTI: Thank you, Commissioner.

6 Any questions?

7 Any further opposition?

8 Mr. Garcia, you can conclude.

9 MR. GARCIA: Yeah, I just would like to clarify a
10 couple of things.

11 The reason that OAL rejected the regulations is that
12 because we follow the law that was created by the Legislature in
13 the Administrative Procedure Act. Procedurally, the regulations
14 are fine.

15 They fail a couple of standards under the
16 Administrative Procedure Act. One of the things that we're
17 charged with doing is making sure that the regulations are
18 consistent with the law, including case law and appellate court
19 decisions specifically. That's our major reason for saying that
20 these regulations are unconstitutional. We are charged with
21 making sure that the regulations are legal.

22 And then there is a major clarity defect. Where the
23 situation is now is, we have -- they don't have permanent
24 regulations, at least on what's necessary to hold the hearings,
25 and they may not even been necessary to hold the hearings. They
26 could probably without regulations, although I think regulations
27 are a good idea.
28

1 as applied to that specific insurer.

2 Right now, the regulations are in a fashion that you
3 can only supply certain information that the Department of
4 Insurance wants. You can't introduce anything outside of that.

5 Cal Farm says they're entitled to introduce anything
6 they want so it can go into the record, and if they want to
7 appeal the decision of the Department of Insurance, they can go
8 into court and get a decision on it.

9 The other provision is a clarity provision. It says
10 that the -- in effect says that the Commissioner of Insurance
11 can change his mind after he takes into account the fact that
12 insurance is in view of the public interest and is sometimes
13 mandatory.

14 That means that on a case-by-case basis, he can
15 change his mind. No one knows what the standards are or why
16 it's being changed. And that -- when you write a regulation, it
17 has to be clear to those people that are going to be affected by
18 it. The comments in the file are voluminous; no one understands
19 what that means, what the standards are.

20 CHAIRMAN ROBERTI: Any further testimony? Yes,
21 Commissioner.

22 COMMISSIONER GARAMENDI: I would like the Members of
23 this Committee to understand the import of the two issues that
24 were raised by Mr. Garcia a moment ago.

25 The first issue is far more than just whether the
26 insurance companies have the opportunity to introduce whatever
27 testimony and information they may want to in the hearing.
28

1 The regulations are fine with two major defects.
2 They did clarify the fee defect, and that -- when they
3 originally sent the regulations to us, they imposed fees on the
4 insurers, and they had to put a statement in there that
5 explained the necessity of those fees, and provide substantial
6 evidence that backed up the necessity of those fees. That was
7 one of the grounds of rejection of the original regulations.
8

9 When they sent us back -- when they sent them back to
10 us, they severed that provision; provided us with a necessity
11 statement, and we gave -- we said, okay, now it's fine. You
12 have fees, to go ahead and proceed. They now have revenue to
13 sue OAL. Maybe Voter Revolt doesn't, but they certainly do.

14 They dropped the case against us. Again, we asked
15 them to do this.

16 The situation is now that they don't have these
17 regulations because they failed the APA standards. They have
18 made an appeal to the Governor. We have told the Governor they
19 still fail the standards, and if they'd just clear these two
20 defects, and specifically said how that that could be done, they
21 can have the regulations.

22 The ball is really in the Department of Insurance's
23 court. They can have the regulations if they just clear two
24 defects up, and that's relatively simple.

25 CHAIRMAN ROBERTI: Where are the two defects again?

26 MR. GARCIA: One is the violation of the Cal Farm
27 decision which prohibits the insurance rate applicant from
28 providing evidence as to whether or not the rate is confiscatory

1 Essentially, Mr. Garcia is arguing that each and
2 every case be handled separate and apart from all others, and
3 that there be no commonality in the decisions that we make on
4 rollbacks. And that each insurance company must be taken on an
5 individual case basis. In other words, there is nothing generic
6 in this industry.

7 I must tell you that Roxani Gillespie attempted to
8 do that and found it to be an absolutely impossible task that
9 would result in thousands of individual hearings, and ultimately
10 she failed at that concept of individualized hearings.

11 She then moved to generic determinations, which is
12 what these regulations do, and actually we followed her
13 procedures in setting the generic factors, in that there is a
14 commonality in certain parts of the formula and certain parts of
15 the insurance industry operations.

16 Without that commonality, we then have -- without it,
17 we have an impossible task of trying to regulate, because there
18 would be an inability to provide equality and equity between the
19 various companies. If each one were totally unique, which they
20 are not, there could be equity, and we would then be on the
21 horns of that dilemma and be brought before the court for being
22 -- for handling cases in an inequitable way, or the companies
23 inequitably.

24 The second point has to do with this issue of the
25 public interest. I refer you to page three of my letter in
26 which we pick up this point.

27 "Mr. Garcia objects to two sections
28

1 of the regulations stating that, in
2 reviewing rates, the Commissioner
3 shall not merely consider the
4 insurance company's claimed needs
5 but shall also 'consider the fact
6 that insurance is imbued with the
7 public interest and is sometimes
8 legally required.'"

9 Well, indeed, that is the case.

10 "The propriety of that policy is so
11 self-evident, one might have
12 difficulty even imagining OAL's
13 objection. OAL claims the phrase
14 lacks 'clarity' [and] that the
15 regulated entities cannot understand
16 what it means.

17 "In fact , the problem is that
18 the insurers understand [exactly]
19 what it means ... and don't like it.
20 In the rule making process, they
21 urged that only an insurer's cost of
22 capital and other costs be weighed,
23 [and] there is no place in the
24 constitutional equation for consumer
25 interests. That is a view that the
26 insurance companies have previously
27 urged, but it was rejected by the
28

1 Supreme Court. The language of the
2 regulation merely reflects the fact
3 that I have considered and rejected
4 the insurers' one-sided approach to
5 rate regulation. Every company
6 involved in rate regulation in the
7 United States fully understands
8"

9 the balance that's necessary in setting rates.

10 Mr. Garcia would have me only consider one side, that
11 is the company's side. We think that's wrong.

12 We think you clearly understand that it is simply a
13 ruse put forward to torpedo the regulatory process and to stop
14 the rebates from going forward.

15 CHAIRMAN ROBERTI: Any further testimony on the
16 matter? Senator Petris.

17 SENATOR PETRIS: I had a question.

18 In the budget debate Sunday, it was reported, at
19 least in that version of the budget, that the funding for the
20 Office is eliminated.

21 Now, that hasn't passed, but I'm wondering if you
22 could shed any light on that?

23 CHAIRMAN ROBERTI: It's sometimes part of the budget
24 negotiation, sometimes not.

25 My last meeting with the Governor sort of indicated
26 that he was rather adamant that we maintain the funding for the
27 agency.
28

1 MR. GARCIA: Mr. Chairman, could I say something on
2 that?

3 CHAIRMAN ROBERTI: Please.

4 MR. GARCIA: I think I can tell you that it's an
5 economic mistake to not fund OAL. And the simple hard numbers
6 are, right now, the only source of regulations is a private
7 publisher.

8 We made some arrangements with both Teale and the
9 State Printer to get the OAL back into printing the regulations
10 and distributing them, making them available to state and local
11 government. And the savings from that alone more than offsets
12 the budget of OAL.

13 So, there's no economic merit to not funding OAL.

14 CHAIRMAN ROBERTI: On the matter of the confirmation,
15 when I heard of your appointment, I wanted to vote for it. I
16 still would like to vote for it.

17 However, Proposition 103 is, as you know and as I
18 indicated earlier, is a major issue. I think the public looks
19 to us as to how we're going to implement their will.

20 I would say that on an issue such as this, in my
21 opinion, a Director of one of the departments should err on the
22 side of the public if there is a dispute as to legal
23 interpretation. In this case, the public voted for Proposition
24 103.

25 And then secondly, there is an executive officer in
26 this case, and that's the Insurance Commissioner. And if there
27 is a dispute as to the legality, I would say that if there's
28

1 going to be an error, presuming that both sides are equal -- I'm
2 not saying that -- that there should an attempt on the part of
3 the bureaucracy to err on the side of the elected official. We
4 would expect that of gubernatorial appointments when they enter
5 the Governor. We seem to have bifurcated situation here, and
6 that is that the Governor has appointed one head of the
7 department, but the people have elected somebody who doesn't
8 necessarily share his philosophy at the other agency.

9
10 But in this case, Commissioner Garamendi is the
11 executive officer, not Governor Wilson. And I think that he has
12 the charge of implementing Proposition 103. Compounded by the
13 fact that Proposition 103 is an initiative, both those factors,
14 I would think that both we and the bureaucracy should err on the
15 side of implementation, assuming that the legal weight is equal.

16 You make a compelling argument, but I have to say
17 that I'm a little bit more impressed by the argument that
18 Mr. Rosenfield and Mr. Garamendi have made.

19 Restraint on the part of the agency to defer to the
20 executive power is, I think, something we look to, and I think
21 in this one very, very important issue, that restraint wasn't
22 present.

23 For that, I can't vote for your confirmation, and I
24 say it regrettably, because I have high regard for your work as
25 a Senator and high regard for you. But this is an enormously
26 important issue.

27 Does anybody else wish to say something?

28 SENATOR BEVERLY: Mr. Chairman, I was prepared to

1 make a motion that we approve the nomination.

2 In all of these hearings of Governor appointees, I
3 guess, as a Republican I start with the presumption that I
4 support the Governor, and I listen, and I can have that
5 presumption removed. It has been removed on occasion, although
6 I don't think we've ever had to go to a vote. I think they've
7 withdrawn the nominations, or the nominee has withdrawn himself.

8 So, I start with that presumption. Also, as a
9 brother, a former colleague in the Senate, that's an added
10 presumption, I suppose, for most of us. It is for me; I admit
11 it.

12 CHAIRMAN ROBERTI: It's human nature for me as well.

13 SENATOR BEVERLY: True.

14 So after that, I thought this. It's come down to one
15 issue: his behavior, his actions with reference to Prop. 103
16 and the Insurance Commissioner's regulations.

17 We stipulated that he's qualified for the job. He
18 must have acted on hundreds if not thousands of other
19 applications for approval of administrative regulations or
20 filings. Nobody has complained about any of them, not a one,
21 it's just in this one set, one series.

22 So, I thought to myself, did he act illegally? I
23 think not.

24 Did he act out of some evil motive to stick it to the
25 insurance companies, or to save the insurance companies, to
26 protect them? Did he act arbitrarily?

27 On the latter, I had some concern. We overlooked
28

1 today, and there's been no reference to it, there was testimony
2 at the prior hearing -- I wish I had the notes about it -- but
3 there was testimony at the prior hearing by Chief Counsel for
4 the -- for your department, or one of the attorneys.

5 MR. GARCIA: Mr. McNamer, who is here today. He
6 talked about some of the technical reasons.

7 SENATOR BEVERLY: A veteran member of the legal staff
8 of that office. And it proved to me that Mr. Garcia did not act
9 arbitrarily or out of any evil motive.

10 The man, right or wrong -- and incidentally, Garcia
11 could be wrong, and I wouldn't say that's a reason for
12 disapproving his appointment -- but right or wrong, this lawyer
13 impressed me as one who had given it a lot of careful study and
14 thought, and had compelling reasons, and he recommended to
15 Senator Garcia that he reject the regulations.

16 So, I was satisfied that he did not act arbitrarily
17 or out of any evil motive.

18 I've always regarded Senator Garcia as very
19 independent, somewhat of a character, but then so was
20 Commissioner Garamendi, who was a character and independent.
21 And I respect those virtues, at least one of them.

22 [Laughter.]

23 SENATOR BEVERLY: So, based on that, I'm prepared --
24 not the one individual. The one characteristic.

25 [Laughter.]

26 SENATOR BEVERLY: I respect them both. John knows
27 that.
28

1 So I'm prepared to move this Committee act to
2 recommend the nomination.

3 CHAIRMAN ROBERTI: Thank you. There's a motion
4 before us.

5 Senator Petris.

6 SENATOR PETRIS: We're going through some anguish
7 here. One of the toughest parts of being a Senator, or any
8 elected official, is to be able to look at friend in the eye on
9 an issue and say no.

10 I met with Senator Garcia earlier in the year on
11 other matters. We had pretty general agreement. In fact, I had
12 indicated I'd even carry legislation if it was needed to make
13 sure that the regulators comply with the statute. I've had
14 trouble with that all through the years on some of my
15 legislation.

16 You have sometimes what I call administrative
17 subversion. You fight very hard for two, or three, or four
18 years to get a law adopted, and some of the toughest opponents
19 are the administrators in the executive branch who doesn't like
20 that law. Then they are given the duty of administering that
21 law, and instead of doing that, they undermine it. I've faced
22 that several times. I think we all have. And when we had our
23 conversation in which you pointed out that you felt some of
24 those regulators were going pretty far from the statute,
25 remembering my prior experience, I said, "Well, if I can help
26 bring the into line, make sure they're focused, make the
27 language understandable," that's what Speaker McCarthy kept
28

1 emphasizing when he carried legislation, that we don't even
2 understand the language, let alone ask ourselves does it carry
3 out the purpose of the statute or not.

4 I think the arguments made on at least two of the
5 points, one is lacking clarity, you know what the saying is:
6 you need a Philadelphia lawyer to read an insurance policy, and
7 only those lawyers understand it. And I'm sure they understand
8 the language of these regulations that the Commissioner has
9 adopted.

10 And the other -- let's see, there were three
11 arguments. One of the others was on a point that has escaped me
12 at this very dramatic moment.

13 At any rate, I think both of those arguments are very
14 compelling.

15 And it is very painful, because I, too, am reluctant
16 to vote against a good friend and a colleague from way back. We
17 worked together on things in the past, and in fact since Senator
18 Garcia left the Senate, we've worked on other things.

19 I kind of endorse what Senator Roberti has said, we
20 have to come back to the fundamentals of 103.

21 It's strange the reaction. We all pick and choose
22 our issues and when we want to raise the banner in defense of
23 the people.

24 If this had been a Prop. 13 situation, you wouldn't
25 have got past that first ruling, right or wrong. If that first
26 ruling had been interpreted as blocking the intent of the
27 people, there'd have been a revolution all over again. Jarvis
28

1 probably would have made a comeback, and he's been gone for
2 years.

3 A feeling is just as strong out there, but it hasn't
4 been focused as much as it is on Prop. 13. I know the moment we
5 even begin discussion, informally, at some hearing that we
6 better revisit 13, there's some flaws in it, we get bombarded
7 with well-orchestrated efforts outside, in the mail, and
8 otherwise, telling us we'd better dare not lay a hand on that
9 because it's the will of the people.

10 Well, the people can make mistakes, too, and they
11 have, as we have.

12 We don't seem to have that same sense of sanctity
13 about the people's vote on 103 because of the overwhelming power
14 and economic power, especially, that opponents have, and can
15 file all these lawsuits, and just keep on hammering away.
16 That's awesome, on top of the millions and millions that were
17 spent in the campaign.

18 I think Mr. Rosenfield makes a very good case on
19 that, plus all these lawsuits that have been filed in between.
20 Now, they're entitled to those lawsuits. I wouldn't deny them
21 the right to do it, but it does raise a question of what is
22 their motive and why are they doing this? Well, they want to
23 get rid of the statute. And I don't blame them for urging on us
24 that those regulations are not in compliance with this and that.

25 But it seems to me, from what he has told us and what
26 we heard before, that it's pretty clear.

27 So, I am going to vote the same way as Roberti with a
28

1 great deal of reluctance because of our past relationship and my
2 own admiration and respect for you.

3 CHAIRMAN ROBERTI: Thank you, Senator.

4 I'd like to interject a point on this issue that
5 Commissioner Garamendi stated that rather impresses me as to the
6 difficulty of his job, and the Catch 22 position that the
7 insurance companies want to put the Commissioner.

8 Unfortunately, your Office has been wound up in, not
9 intentionally -- you're forced; you have to deal with these
10 questions when they're presented to you -- and that's the whole
11 question on the generic application to insurance companies.

12 I mean, to deal with every insurance company on rate
13 regulation on an individual basis is impossible, not only
14 costly but impossible, because the amount of time, and the
15 inability to make it equal as to everybody, we would be here in
16 the 21st Century discussing this.

17 And the insurance companies have the battery of
18 attorneys that would make the Trial Attorneys Association pale
19 into insignificance by comparison, to use those arguments to
20 stall us into the 21st Century, quite literally, because they
21 want each company to be dealt with individually.

22 As soon as the Commissioner would say, "Uncle, we're
23 going to go with you individually rather than generically," the
24 same battery of attorneys would push us into the 21st Century
25 saying that they aren't dealt with equally, and come up with
26 some rare permutations of regulation that one company isn't
27 dealt with the same. And it's inevitable when you have so many
28

1 companies and so much complexity.

2 It's just an impossible situation. I could see a
3 scenario where the regulations never would be implemented
4 without some understanding from the OAL.

5 Well, at any rate, your job, too, has been difficult.
6 And I'm not quarreling at all with your motivation in the
7 decisions that you made. It's just that I don't agree with
8 them.

9 Senator Beverly's motion is before us. Secretary
10 will call the roll.

11 SECRETARY WEBB: Senator Beverly.

12 SENATOR BEVERLY: Aye.

13 SECRETARY WEBB: Beverly Aye.

14 Senator Mello.

15 SENATOR MELLO: No.

16 SECRETARY WEBB: Mello No.

17 Senator Petris.

18 SENATOR PETRIS: No.

19 SECRETARY WEBB: Petris No.

20 Senator Craven.

21 SENATOR CRAVEN: Aye.

22 SECRETARY WEBB: Craven Aye.

23 Senator Roberti.

24 CHAIRMAN ROBERTI: No.

25 SECRETARY WEBB: Roberti No.

26 CHAIRMAN ROBERTI: The motion fails two to three.

27 MR. GARCIA: Thank you, Members.

28 [Thereupon this portion of the
Senate Rules Committee hearing
was terminated at approximately

3:08 P.M.]

CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of August, 1992.


EVELYN J. MIZAK
Shorthand Reporter

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Legislature
HEARING

SENATE RULES COMMITTEE
STATE OF CALIFORNIA



STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

WEDNESDAY, AUGUST 12, 1992
2:10 P.M.

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SENATE RULES COMMITTEE
STATE OF CALIFORNIA

HEARING

STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

WEDNESDAY, AUGUST 12, 1992

2:10 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter

APPEARANCES

MEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR NICHOLAS PETRIS

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

MICHAEL H. CARRILLO, Warden
California State Prison at Wasco

BOYD H. GIBBONS III, Director
Department of Fish and Game

SENATOR MIKE THOMPSON

JOHN GRANT, President
California Association of Professional Scientists

JAMES HAMILTON, Conservation Director
California Trout

JOHN BEUTTLER, Executive Director
United Anglers of California

SHARMAN WILSON
Trout Unlimited of California

NAT BINGHAM, Chairman
California Salmon Trawlers Advisory Committee

BILL DEMPSEY
Nature Conservancy

APPEARANCES (CONTINUED)

BRYAN S. GUNN, Warden
California State Prison at Calipatria

MICHAEL T. PICKETT, Warden
California Institution for Men

ROBERT H. RIVINIUS, Member
Board of Governors
California Community Colleges

THEO WHITE, Warden
Chuckawalla Valley State Prison

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CHAIRMAN ROBERTI: Michael H. Carrillo, Warden of California State Prison, Wasco.

Mr. Carrillo, we'll ask you what we ask all the Governor's appointees, and that is why you feel you're qualified to assume this position?

MR. CARRILLO: Well, if I may, Senator, I'd like to greet all of you, Mr. Chairman, other distinguished Senators and Committee Members.

My name is Michael H. Carrillo, acting Warden at the Wasco State Prison Reception Center.

And to answer your question, I believe I am qualified for the position of Warden because of the following. I have been employed by the California Department of Corrections for a period of 25 years. I have worked at four different institutions throughout the State of California. I promoted through the ranks in 14 distinct positions during my career.

I have been Chief Deputy Warden in the Correctional Training Facility for a period of six years, and that was excellent experience. But the greater challenge has been the activation of the new Wasco State Prison Reception Center, the largest one ever built, the most modern and advanced in terms of its technology. It has provided the opportunity to develop excellent community and law enforcement ties. We are definitely in juvenile diversion programs, child abuse prevention programs with the community, not only the surrounding city but the county

1 as well. We have an excellent team that's been involved in
2 deploying and developing of toy drives, fund drives, basically
3 to assist the disadvantaged of the area.

4 We also have one of the finest citizens advisory
5 committees, at least that's my opinion, and they are dedicated
6 to doing a good job and learning about the prison system, as we
7 are in explaining to them how the process works.

8 We also have some excellent volunteer programs. We
9 have -- at one time we had up to 25 members of the community
10 coming into the prison system to learn about the jobs so they
11 can avail themselves of the examination process and later become
12 employees based on the exposures that they have received. We
13 welcome that. We continue to have one of the best records in
14 terms of volunteers in that respect.

15 Also in terms of work programs, community crews,
16 academic programs, working closely with the City of Wasco and
17 neighboring communities, we have now been able to access
18 community college assistance, and we are working to better not
19 only the inmate population academically, but also the staff
20 through new video programs.

21 I couldn't ask for a better position in terms of
22 support from the community. They've been genuine; they've been
23 sincere, and they've been supporting. I'm very fortunate to
24 have had that exposure and that experience.

25 As far as affirmative action and the goals of the
26 California Department of Corrections, I believe that we are in
27 total compliance or close as close to total as anyone has ever
28

1 been. And our hiring record shows that we were able to hire
2 perhaps in one of the few instances 50 percent of the local
3 residents of a given county. So, we're very proud of that
4 record.

5
6 The Wasco State Prison Reception Center was activated
7 in July of 1991. Currently we house over 4500 inmates, and we
8 have approximately 1,040 staff. The activation itself required
9 a tremendous amount of dedication, both during the day, the
10 evening, and traveling, and being involved in numerous meetings
11 to plan out not only the policies and procedures, but also to
12 work closely with the entire activation of the recruitment
13 aspects of a new prison.

14 This monumental effort, raising a prison from the
15 ground up to its full activation, has been the most challenging
16 program or project of my career. It is something that I am
17 proud of. I believe I have done so successfully, thanks to the
18 help and support of many good people.

19 I believe I qualify for the position of Warden.

20 Thank you.

21 CHAIRMAN ROBERTI: Thank you very much.

22 Is there anyone here in opposition?

23 Are there any questions?

24 I think, Mr. Carrillo, you're going to get off real
25 easy today.

26 SENATOR CRAVEN: Move Mr. Carrillo.

27 CHAIRMAN ROBERTI: Senator Craven makes a motion.

28 Secretary, call the roll.

1 SECRETARY WEBB: Senator Beverly.

2 SENATOR BEVERLY: Aye.

3 SECRETARY WEBB: Beverly Aye.

4 Senator Mello.

5 SENATOR MELLO: Aye.

6 SECRETARY WEBB: Mello Aye.

7 Senator Petris.

8 SENATOR PETRIS: Aye.

9 SECRETARY WEBB: Petris Aye.

10 Senator Craven.

11 SENATOR CRAVEN: Aye.

12 SECRETARY WEBB: Craven Aye.

13 Senator Roberti.

14 CHAIRMAN ROBERTI: Aye.

15 SECRETARY WEBB: Roberti Aye.

16 CHAIRMAN ROBERTI: The vote is five to zero;

17 confirmation's recommended to the Floor.

18 Congratulations.

19 MR. CARRILLO: Thank you very much.

20 [Thereupon the Senate Rules
21 Committee acted upon legislative
22 agenda items.]

23 CHAIRMAN ROBERTI: Boyd H. Gibbons III, Director of
24 the Department of Fish and Game.

25 Mr. Gibbons, we will ask you what we ask all the
26 Governor's appointees, and that's why you feel you're qualified
27 to assume this position?
28

1
2 MR. GIBBONS: Mr. Chairman, Senators, the Department
3 of Fish and Game has the responsibilities for the trust of the
4 wildlife of the State of California, and these issues, and the
5 conservation and environmental issues surrounding, have been
6 issues that I've worked on in one way or another for most of my
7 adult life.

8 My interest in these issues really stems from my
9 childhood passions, which began growing up as a young boy in
10 Southern California, hunting with my -- and fishing with my
11 father at Lake Henshaw and for quail in San Diego County. And
12 I pursued these interests, and the broader issues of wildlife
13 conservation and conservation in general, throughout my public
14 life.

15 I am a fourth generation Californian, a westerner.
16 my great-grandfather came here in 1890, started a small grocery
17 store. And my grandfather came out from Missouri because he
18 couldn't stand the winters, and heard there was good quail
19 hunting. That was in about 1905. My father was born in San
20 Diego, and my mother was trained as a nurse at Hollywood
21 Hospital. They were married here, and my father is still here,
22 as are my aunts and uncles.

23 My wife and I first met here in California, and we're
24 glad to be back. Her family also are Californians.

25 I left California to move to Montana to a cattle
26 ranch, and there my interests expanded, and my love for the out
27 of doors had a wide range. It was there that I really began to
28 get a great appreciation for the people who are the real

1 trustees of the land: ranchers and farmers. I went on to a
2 small boarding school in Utah on the Wausatch Range, small town
3 of Mount Pleasant, and then on to Arizona for college and law
4 school, and some practice of law.

5 I've really lived all over the west, and I feel that
6 having returned now to California, having had a somewhat varied
7 career in journalism and government that has covered much of the
8 natural resource issues that this Department deals with, and
9 many others besides, that California is, of course, involved in
10 great difficult issues dealing with the environment and
11 wildlife, primarily because of the condition of geography and
12 water, and the pressures of population.

13 It's clear that much of the habitat that we care
14 about is on private lands, and it is here, with ranchers and
15 farmers, that I feel a great affinity, and I want to enlist
16 their help, for they really play an important role.

17 As for the Department, it is staffed by really
18 dedicated and talented people who probably have some of the most
19 difficult jobs in state government. But they have come a long
20 way.

21 It's my interest to see that this Department is
22 service-oriented; that we assist the public, despite the fact
23 that we, of course, have programs that require some regulation.

24 I look forward to working with the Legislature, and I
25 would appreciate your support.

26 Thank you very much.

27 SENATOR CRAVEN: Very good, thank you.
28

1 Any Members of the Committee wish to make any comment
2 at this time? Yes, Senator Petris has a question.

3 SENATOR PETRIS: What did you do with National
4 Geographic? Were you --

5 MR. GIBBONS: I was a writer, Senator, senior
6 editorial staff, which is a fancy word for writer.

7 It meant I went out on assignment all over the world,
8 much of it here in the west because this is where my interests
9 lay, on various issues; some having nothing to do with these
10 subjects: the sense of smell; alcohol. I wrote of the Oregon
11 Trail, and the -- really the person who represents the
12 profession over which I find myself, Aldo Leopold, who was the
13 father of wildlife management.

14 SENATOR PETRIS: Thanks.

15 CHAIRMAN ROBERTI: Senator Thompson has joined us and
16 would like to take part in this interrogation.

17 SENATOR THOMPSON: Thank you, Mr. Chairman and
18 Members of the Committee, for allowing me to participate.

19 Mr. Gibbons, I'd like to pick up on the point that
20 you made regarding the dedicated employees of Fish and Game.

21 I'm concerned about the proposed personnel shuffling
22 that was outlined in a Department memo that came to some of our
23 -- the attention of some of us. And it's my belief that the
24 folks who were mentioned in the memo and the employees that you
25 mentioned in your opening remarks are, in fact, dedicated,
26 knowledgeable individuals in their particular issue areas.

27 I'm wondering what sort of justification there is for
28

1 a reshuffling of the nature outlined in that proposal.

2 I have a specific instance in my district where one
3 of the regional managers, who seems to have a wonderful rapport
4 with all the folks who he works with, is actually proposed to be
5 demoted, I guess, to the wildlife manager position in the
6 Environmental Services Division, without cause.

7 I'd like to know why that would even been considered,
8 and how that would enhance the fisheries and wildlife?

9 MR. GIBBONS: Certainly, anybody who takes over a
10 large department like this, running a corporation, a department
11 of government, has to look at the individuals there, make an
12 assessment where they can best be used. I've been doing that as
13 I travel around the state, meet with the staff.

14 The memorandum you're referring to was not a decision
15 document. It was a -- simply a discussion piece to me from a
16 member of my staff with some possible options, and that's what
17 it represented.

18 SENATOR THOMPSON: Are you planning to follow up on
19 that? Talk to people in the field; take into consideration the
20 fact that these folks who are dedicated, experienced personnel
21 in their areas, a move would not only be disruptive to the
22 Department, to fish and wildlife, and the people who the
23 Department serves, but to their personal life as well?

24 MR. GIBBONS: Yes, I take into account, Senator.

25 SENATOR THOMPSON: Who are you going to handle that,
26 and how will we be able to ensure that those moves, the
27 reshuffling, whatever part of it takes place, if any of it takes
28

1 place, is going to further the goal of your Department?

2 If everytime a Director came in -- and, you know,
3 you're here for two years; there's a likelihood that after that
4 it'll be someone else, and the next person comes in and
5 reshuffles, how do we provide continuity over those resources?

6 MR. GIBBONS: Well, Senator, there has been very
7 little shuffling of people, as far as I can see, over many years
8 in the Department.

9 I don't intend to move people for the sake of moving
10 people. I intend to try and find the best use of the personnel
11 we have.

12 SENATOR THOMPSON: Are the personnel choices that
13 you're going to make, are they going to have fish and wildlife
14 first and foremost as a priority, or are you going to continue
15 to appoint and hire advocates for fish and wildlife?

16 Before you answer, I just -- there was a recent
17 appointment of Al Johns as General Counsel. It's my
18 understanding that not only did this individual sue the Water
19 Resources Control Board when the Board attempted to set water
20 temperature standards in an effort to protect salmon, but he
21 also defended the Bureau of Reclamation's handling of the
22 Kesterson toxic site, which was being passed off as a wildlife
23 refuge.

24 How does this appointment or hire of that nature
25 further the goals of your mission?

26 MR. GIBBONS: Well, there's been no appointment and
27 no such hire. The individual you're referring to is no longer a
28

1 candidate.

2 I think it's unfortunate that the sort of discussion
3 about him, I think it's been quite inaccurate, but I will --

4 SENATOR THOMPSON: Were the two issues I pointed out
5 inaccurate?

6 MR. GIBBONS: I'm sorry?

7 SENATOR THOMPSON: Were the two issues that I pointed
8 out -- the Kesterson issue and the water temperature standards
9 issue -- were those inaccurate?

10 MR. GIBBONS: He represented the Bureau of
11 Reclamation, yes.

12 As for personnel decisions, I will make the best
13 decisions I can. I think those decisions are vitally important
14 in any organization, and I will do it thoughtfully and
15 carefully.

16 SENATOR THOMPSON: You and I had an opportunity to
17 work on a Sacramento River project, the Glenn-Colusa Irrigation
18 District. They have a pumping station that's equipped with
19 certain screens to prevent the suction of downward migrating
20 fisheries into the farmlands. It's a screen -- a pumping
21 station that was designed, constructed, and continues to be
22 maintained by the Department of Fish and Game. I think it's
23 safe to say that it doesn't work.

24 MR. GIBBONS: That's safe to say.

25 SENATOR THOMPSON: And it's my understanding it's the
26 Department's proposal that the Glenn Irrigation -- Glenn-Colusa
27 Irrigation District construct a \$40 million screen system of
28

1 their own outside of the channel.

2 I'd like to know if it is -- if you're going to
3 pursue, or at least look at, alternatives to an expensive
4 construction of that type? I understand there's some new
5 technologies: sound technologies, some lighting technologies.
6 And it's also my understanding that the Department has been
7 unwilling to consider any of that.

8 MR. GIBBONS: Yes, Senator, I did meet with you, and
9 it was a very useful briefing.

10 This, as you know, has been a long and difficult
11 controversy over the fish screen. I think the Department has
12 worked very diligently to work carefully with the District and
13 all the parties involved. As you know, this is involved in the
14 courts, and I don't wish to comment too far there.

15 But I think we will find a solution. Paul Jenson, on
16 our staff, has been working closely with the District and the
17 federal agencies: National Marine Fisheries Service, and Fish
18 and Wildlife Service.

19 SENATOR THOMPSON: I think the District has a
20 different understanding of what's going on. They feel that
21 their direction now is to construct the new screened pumping
22 system on the river itself, rather than the channel, a \$40
23 million project. And it's -- and the direction is coming after
24 Fish and Game's attempt to clear up the problem has failed. And
25 there seems to be an interim solution that could be applied that
26 is far cheaper and could be very effective.

27 I think we need to look at that, along with the new
28

1 technologies. I'm not clear that the Department is willing to
2 do that.

3 MR. GIBBONS: Well, I think that all the parties
4 involved have been analyzing all these issues. And all I can
5 say is, reasonable people are trying to reach agreement on a
6 very difficult issue.

7 SENATOR THOMPSON: And I have just one further
8 question.

9 As Director of the Department of Fish and Game, are
10 you are going to have to interface closely with a lot of
11 agricultural concerns in the state. One that's very important
12 to myself, and I know Members of this Committee, is the wine
13 industry, under your land-use procedures, as well as their land
14 acquisitions.

15 It's been brought to my attention that there's at
16 least some concern that you have a predisposed opinion of the
17 industry, and that it may in fact cloud the relationship that's
18 going to be important for you to maintain with the wine
19 industry.

20 MR. GIBBONS: Quite the contrary. I enjoy drinking
21 their product.

22 You may be referring to what we discussed the other
23 day.

24 SENATOR THOMPSON: I think it's the article,
25 "Alcohol, the Legal Drug."

26 MR. GIBBONS: Yes, as it is indeed.

27 I found early on, as a writer, as you must know in
28

1 your role as a Senator, that one simply doesn't please everybody
2 all the time. And when you write a piece and it's published,
3 you're going to get comments from all sides.

4 But this doesn't reflect any attitude of mine towards
5 the wine industry at all.

6 SENATOR THOMPSON: The premium wine industry has made
7 great strides --

8 MR. GIBBONS: Yes, they have.

9 SENATOR THOMPSON: -- in setting themselves apart --

10 MR. GIBBONS: Right.

11 SENATOR THOMPSON: -- from other similar industries,
12 and are working hard to ensure that it's part of the food
13 components. And they're doing a very responsible job. I can
14 understand, as I'm sure you can, the sensitivity that they have,
15 the concern that they have, and the need to make sure that we
16 have a good relationship between the Department and that
17 industry that is so important.

18 MR. GIBBONS: Yes, that will be no problem. I
19 remember visiting Semmi Winery in pursuit of this story.

20 SENATOR CRAVEN: Fine, thank you.

21 Is there anyone in the audience who wishes to make
22 comment, either pro or con? Fine, come forward, please; state
23 your name.

24 MR. GRANT: My name is John Grant. I am speaking
25 today as President of CAPS, the California Association of
26 Professional Scientists. CAPS represents about 2,000 scientists
27 in state government: physicists, chemists, entomologists, and
28

1 about 300 fishery, marine, and wildlife biologists that work
2 with Mr. Gibbons.

3 I'm speaking today in favor of his appointment. We
4 -- my first experience with Mr. Gibbons was during the aftermath
5 of the death of two of our biologists who crashed while
6 investigating an oil spill. He immediately went to the area and
7 showed great compassion to the families and to the coworkers of
8 the individuals that were killed. I think that compassion
9 represents his view toward the employees that he will oversee.

10 I also feel that, after having several discussions
11 with him, personal and in-group, that his environmental ethic is
12 very strong and his personal ethic. I think he's the first
13 Director in my memory, after 20 years as a marine biologist,
14 Fish and Game, he's the first Director who even knows who
15 Leopold was, let alone has read his book.

16 I think it's important that we support him.

17 I am somewhat surprised to be up here, supporting a
18 Wilson appointee. In this case, I'm very pleasantly surprised.
19 I think he's a great man for the job.

20 Thank you very much.

21 SENATOR CRAVEN: Thank you very much, sir.

22 Anyone else wish to comment? Any Member of the
23 Committee?

24 Yes, sir, come up. State your name, please.

25 MR. HAMILTON: I'm James Hamilton. I'm the
26 Conservation Director of California Trout.

27 I'm here to speak today in behalf of Boyd Gibbons's
28

1 appointment. California Trout supports Governor Wilson's
2 appointment of Mr. Boyd Gibbons to the position of the Director
3 of the California Department of Fish and Game. We encourage the
4 Senate Rules Committee to confirm his appointment.
5

6 The Department has been compromised for many years in
7 its ability to protect fisheries and fish fauna. The reasons
8 for this are many and varied: over politicalization, lack of
9 wherewithal. In fact, the Department has more or less been beat
10 up on by other agencies that have a few more street smarts.

11 Mr. Gibbons has taken on an unenviable job, and we
12 are convinced he has done so out of personal conviction. We
13 think we want to help government get back for the fish what
14 Mammon, the CVP, and the State Water Project have taken away.

15 Mr. Gibbons, in our opinion, put his best foot
16 forward when he reached the decision to curtail the stocking of
17 striped bass in the Sacramento River in an all-out effort to
18 bring salmon back from the brink of extinction. That decision
19 was taken at the risk of alienating constituent groups that the
20 Director needs as friends.

21 We think it was the right decision, because it put
22 the health of the ecosystem ahead of the fishery; it put the
23 resource before special interest bartering. This is precisely
24 the kind of government fishermen need. We believe that fish
25 will continue to derive benefits as long as Mr. Gibbons holds
26 this position.

27 Thank you.

28 SENATOR CRAVEN: Thank you very much, sir.

1 Anyone else? Yes, sir. State your name, please.

2 MR. BEUTTLER: Mr. Chairman and Members, my name is
3 John Beuttler. I'm the Executive Director of United Anglers of
4 California. This is the state's largest fishery conservation
5 organization, representing some 80,000 anglers across the state.
6

7 We're here to seek your support today and tell you of
8 our support for Boyd Gibbons to be confirmed as Director of the
9 Department of Fish and Game. On behalf of our membership and
10 the 60 affiliated sport fishing organizations that are part of
11 our organization, I want to advise you that, in our opinion, the
12 Director has demonstrated his concern for fish and wildlife from
13 a global perspective, a statewide perspective, and a local
14 perspective every early in his acting directorship.

15 We believe that he has demonstrated that this concern
16 is in the best public interest, and that he will work actively
17 to restore these resources that were once so important to
18 California's economy and could be again.

19 We're convinced that he will do his level best to
20 work with all of his constituency towards those objectives, and
21 we therefor believe that we think that he will do an outstanding
22 job, given the very difficult circumstances under which he will
23 have to perform.

24 SENATOR CRAVEN: Thank you very much, sir.

25 Anyone else? Yes, ma'am.

26 MS. WILSON: Hi. I'm Sharman Wilson. I represent
27 Trout Unlimited of California, and it's one of the, you know,
28 larger organizations. We have approximately 6,000 members in

1 the State of California.

2 We believe that Mr. Gibbons will bring both a clarity
3 of vision to the Department, and have strong administrative
4 ability to the position of Director. We have had opportunities
5 to see him in action over the last few months, and we've liked
6 -- you know, we've liked what we see.

7 Trout Unlimited appreciates the difficult task that
8 confronts him as the Director, and sincerely wish to work with
9 him in his endeavor to restore and manage California's fish and
10 wildlife.

11 And we'd appreciate your aye vote. Thank you.

12 SENATOR CRAVEN: Thank you very much, Ms. Wilson.

13 Anyone else? Yes.

14 MR. BINGHAM: Good afternoon. My name is Nat
15 Bingham. I'm former President of the Pacific Coast Federation
16 of Fishermen's Associations, and I serve as Chairman of the
17 California Salmon Trawlers Advisory Committee, better known as
18 the Salmon STAMP Committee. I'm speaking this afternoon as an
19 individual and Chairperson of the STAMP Committee.

20 We had some concerns in PCFFA regarding the
21 appointment of Al Johns, and some of the other issues which were
22 discussed earlier in this hearing.

23 Thanks to Senator Mello's intervention, a meeting
24 took place between President Pietro Peravano, Dave Danbaum, a
25 well-known fisherman, and most of those concerns were addressed
26 and resolved.

27 And I want to thank Mr. Mello for his efforts to
28

1 resolve those concerns.

2 So, I'm here this afternoon in support. I believe
3 that Mr. Gibbons has demonstrated a strong commitment to the
4 restoration of the salmon resource. And in the very desperate
5 situation we're faced with with the salmon industry almost out
6 of business, it's that kind of commitment that we need to see.

7 Thank you.

8 SENATOR CRAVEN: Thank you very much, sir.

9 Anyone else?

10 MR. DEMPSEY: Mr. Chairman, I'm Bill Dempsey with the
11 California Nature Conservancy. The Nature Conservancy is an
12 international membership organization of over 600,000 members
13 who manage the world's largest private reserve system and are
14 dedicated to the preservation of ecosystems and those species,
15 particularly endangered ones, who are dependent upon them.

16 I think Senator Mello, and I know Senator Thompson,
17 know of our work in their districts. They also know that
18 because we manage very substantial, sensitive areas in
19 California, tens of thousands of acres, we know the problems
20 that Mr. Gibbons will be confronted with.

21 But we also know him, and hence, we encourage your
22 support of his appointment.

23 Thank you.

24 SENATOR CRAVEN: Thank you, sir.

25 Anyone else? There appears to be none.

26 Any questions? Senator Mello.

27 SENATOR MELLO: I just want to make a few comments.
28

1 SENATOR CRAVEN: Please do.

2 SENATOR MELLO: Some of the speakers alluded to this,
3 and that is, I've been impressed with Mr. Gibbons's ability. At
4 one time, a lot of these people that are here were concerned,
5 and they expressed -- and they came out with specifics with him.
6 But I was impressed with Mr. Gibbons's ability to sit down with
7 these people and really respond to them. It indicated a
8 continuing interest in keeping the dialogue going, not only
9 before the confirmation, but after.

10 I think that's something that has to be done. This
11 Director's job in California, it's fish, and game, and wildlife,
12 and wetlands, and habitat, and all kinds of scientific and
13 biological resources, and I think he has a very good Department
14 there, which needed, in my opinion, somebody with the commitment
15 and the skills to administer it and really make full use of
16 those staff.

17 I just to say one thing to Senator Thompson about Al
18 Johns, who was being considered, as I understand this leaked
19 memo, to be the General Counsel for the Department in charge of
20 the water situation. And it's true of the allegations you
21 brought forth, there was those tie-ins, but I think once that
22 surfaced, his name was withdrawn.

23 Isn't that true, Mr. Gibbons? He's no longer under
24 consideration?

25 MR. GIBBONS: That's right, Senator.

26 SENATOR MELLO: So, I think that was done because of
27 many of the sports and game people in California who were
28

1 concerned. They did not want a person that had -- even though
2 attorneys, as I understand quite well, they represent clients,
3 and sometimes they represent criminal violators, and one
4 interest or the other. That's really their job.

5 But in this case, I think Mr. Johns had a history of
6 really representing interests that were adverse to the best
7 interests, I think, of the environment and Fish and Game. But
8 he's no longer under consideration, so that issue's removed.

9 There was a letter by five of our Members, and I
10 don't know; maybe I can ask our consultant, Nancy Michel. They
11 indicated they wanted to delay the confirmation. I don't know
12 if they're still of that opinion or not. I think a lot of the
13 opposition has been removed.

14 Would you care to comment?

15 SENATOR CRAVEN: Senator Mello, I think the President
16 Pro Tem would like to delay a vote on the issue. Whatever
17 comment you have, fine.

18 SENATOR MELLO: Well, I just want to point out, we
19 looked at all the different alternatives. He was appointed on
20 January 2nd, 1992, which means that by the Government Code, his
21 term would be up on January 2nd, 1993, and we'll not be back in
22 session until a few days after that.

23 SENATOR CRAVEN: Right.

24 SENATOR MELLO: He must be confirmed in August to be
25 routinely confirmed.

26 The only other option would be something I don't
27 think we've done, to my knowledge, and that is, he could be
28

1 taken up when we come back in December to reorganize. That
2 would be the last final, final date.

3 I mean, I'm willing to support his confirmation today
4 on the Floor, but I mean, if the majority of people want to hold
5 him up -- the advantage of holding him up would just be another
6 two or three months of evaluation of his conduct.

7 I'm sort of betting on the come that he's made a
8 commitment to keep working the best interest of the state's
9 resources, and I just take him at that work and make sure that
10 he does that.

11 SENATOR CRAVEN: I, of course, agree with you. I
12 have no problem with that, but in deference to the Chairman, I
13 made the comment that I did.

14 Senator Petris, do you have something to elucidate?

15 SENATOR PETRIS: Yes, I like very much what I've seen
16 and heard today.

17 But Senator Roberti was going to make that request,
18 not on his own behalf, but two other Senators'. It may only be
19 -- five Senators -- it may only be a couple, three weeks; I
20 don't know. He didn't specify how long. He didn't say, "Bounce
21 it over until December."

22 So, maybe we should do it at the call of the Chair,
23 and see how much time we have. We may well do it before we
24 leave.

25 SENATOR MELLO: The other option would be to have the
26 Pro Tem hold his name on the Floor until he feels he wants to
27 take him up, and that would be beyond August, if he wants to
28

1 make that decision.

2 SENATOR PETRIS: It could be.

3 MR. GIBBONS: May I add something?

4 SENATOR MELLO: Could we have -- Cliff is not here --
5 Nancy, I guess you'd be the one. Could you go to the phone and
6 ask Senator Roberti if he'd -- I don't want to dispute what
7 Senator Craven is saying, but does he want to move him to the
8 Floor and hold him there, or just hold him in Committee?

9 MS. MICHEL: He wasn't specific on what it was he
10 wanted. I think he's in the Governor's Office, but I'd be happy
11 to try.

12 SENATOR MELLO: Well, I stated my position, and I'll
13 go along with what the Committee wants to do.

14 SENATOR CRAVEN: Very good.

15 Senator Beverly.

16 SENATOR BEVERLY: I have a question on waiting until
17 December for the Rules Committee to act.

18 There'll be a new Rules Committee and a new Senate;
19 will there not?

20 SENATOR CRAVEN: Well, by calendar, yes; by
21 personality, not necessarily.

22 [Laughter.]

23 SENATOR BEVERLY: I hope not, at least in some
24 respects.

25 SENATOR CRAVEN: I don't want to foreclose the option
26 or the opportunity that Senator Thompson and Senator Keene, and
27 several other Senators, would have to make comment.
28

1 But I'm wondering if we could bring this thing to a
2 quicker conclusion than taking it, perhaps, to the month of
3 December, and do it by the end of this month, August? Do you
4 think that that would be a possibility?

5 SENATOR MELLO: Senator Thompson is the only one of
6 the five that's here.

7 You signed the letter, and I know it was shown to me.
8 And I felt, because I'm on the Rules Committee, I didn't want to
9 put my name on it, but you, and Senator McCorquodale, Marks,
10 Boatwright, and Calderon.

11 Is it still your feeling you want to hold him up, or
12 do you want to let him go to the Floor, then we could make a
13 decision there when to take him up, either in August or later if
14 that's the decision.

15 SENATOR THOMPSON: Senator Mello, my position, and I
16 think I can speak for Senator Boatwright -- he and I had a
17 discussion earlier today -- that I've received, and the reason
18 I'm here, and the reason I met with Mr. Gibbons yesterday, is, I
19 have received a lot of calls and letters on this particular
20 appointment.

21 Now, I've discussed with Mr. Gibbons some of the
22 problems. I want an opportunity to further discuss with the
23 people in my district their concerns, and maybe even bring Mr.
24 Gibbons over, to allow him to meet with these folks, because
25 they are, in fact, people you haven't had a chance to meet with.

26 I know that Senator Boatwright feels the same way.

27 Given the budget situation, I just don't know how
28

1 much time we're going to have in August to able to do that.
2 That's why we thought that coming back in December, we could
3 give us all an opportunity to deal with our constituents in our
4 districts.

5 SENATOR MELLO: The problem with December, as I see
6 the mechanics, would be, if the Rules Committee doesn't put the
7 name on the Floor, the the Rules Committee would have to meet --
8 because we're only going to be here one day in November -- we'd
9 have to meet in special session, and pull his name to the Floor
10 without any notice to the public that he's up to be on the
11 Floor.

12 But putting it on the Floor now, then it's up to the
13 Pro Tem, and really, the House, to move it in August or later.
14 At least the Rules Committee would not have to undertake that.

15 SENATOR CRAVEN: You know, when I think of the
16 position that we're discussing today as Director of Department
17 of Fish and Game, that's really a tough one under the very best
18 of circumstances. All of us knew the gentleman who was this
19 man's predecessor very well.

20 And if there's one organization that seems to have
21 the ability to draw a hell of a lot of conflict from the public,
22 that's it.

23 I don't think the fact that, you know, Mike has some
24 problems with some of his people makes it particularly different
25 than it's ever been in the past. And no matter how good or how
26 bad, I suppose something that is as controversial as fish, and
27 wildlife, and resources, and redwood trees, and things like
28

1 that, they all fall into the same milieu: they have a tendency
2 to ignite the emotion within so many people.

3 And I'm not saying there's anything wrong about that,
4 but I'm saying, is what they ignite something that they have
5 brought to the attention of this man or not? And if they have,
6 has he talked to them; has he in any way assuaged their feeling,
7 or has he completely overlooked them?

8 I don't mind holding it over, but I would like to do
9 it with some thought that we could bring it to a more quick
10 conclusion than taking it to the end of the year. It has a
11 tendency to just put this gentleman on the weak end of the bow,
12 ready to fall to the ground, and that's a very, very difficult
13 way to work.

14 Those of us who are elected officials, we understand
15 that quite well, but appointees are a little different.

16 SENATOR MELLO: Mr. Chairman, could I propose another
17 alternative?

18 SENATOR CRAVEN: Sure.

19 SENATOR MELLO: It might be a compromise. I spoke
20 with Ms. Michel about this, and that would give us both
21 flexibility.

22 That is to put his question of confirmation up before
23 the Rules Committee today, with the understanding that his name
24 be held in Committee, even if approved. Give the Chairman of
25 the Rules Committee authority to move that to the Floor in a
26 week or two weeks. Or, if he sees that Senator Thompson and
27 others want to re-open, then we can move reconsideration and
28

1 have some additional information. But at least he would be, I
2 think, confirmed today, but held in the Committee, and it would
3 not go to the Floor until such time as either the Rules
4 Committee or the Pro Tem would do that.

5 I just want to accommodate Senator Thompson and some
6 of our colleagues. If they do come up with something they want
7 to go over, they'd have a week.

8 SENATOR CRAVEN: Very good.

9 I have no objection with that. Let me ask Senator
10 Petris and Senator Beverly. Do you have any objection to that?

11 SENATOR BEVERLY: As I understand it, we would vote
12 today?

13 SENATOR CRAVEN: Yes, sir. That's as I understand
14 what Senator Mello has --

15 SENATOR MELLO: Vote today, but it will not go to the
16 Floor --

17 SENATOR CRAVEN: Vote today, and then hold it in
18 Committee for the President Pro Tem to come back, make a
19 decision. In the meantime --

20 SENATOR MELLO: Well, the President Pro Tem can move
21 it to the Floor himself. I think we designate that power.

22 SENATOR CRAVEN: That's right. In other words, those
23 persons of the Senate who many stand in opposition still have an
24 opportunity to --

25 SENATOR BEVERLY: I still have concerns about waiting
26 until December.

27 I look at the calendar, and on November 30th, the
28

Senate adjourns sine die. You get a whole new body.

I don't know that these things carry over. We've never run into it before.

MS. MICHEL: Yes, they do.

SENATOR BEVERLY: We're satisfied on that legal point, and I hope we never get to it.

SENATOR CRAVEN: Senator Mello, what would you think of just holding the matter for a period of, we'll say, two weeks for a vote?

SENATOR MELLO: Well, that's okay. I think two weeks from today, that puts it up on the 26th, and we'll be out of here by the 31st. There was some talk about us getting out on the 28th, because we did a lot of our August work --

SENATOR CRAVEN: Only in the case of a fire, I think.

[Laughter.]

SENATOR MELLO: Assuming the budget's on, and all those other things.

I mean, we could put it to a vote. I'd rather it go out. I rather support putting the vote up for confirmation, holding him here, and let Mr. Thompson, and Boatwright, and others, if there's reason to re-open the hearing, I think we can do it right here.

SENATOR CRAVEN: In other words, your point is, let's vote now.

SENATOR MELLO: That's what I'd like to do, but by doing that, Senator Thompson, I'm not taking away your right to bring some additional questions to him. He'll still be here

1 before the Committee, and the Pro Tem of the Committee can then
2 move to re-open the hearing based on any new testimony. But at
3 least, we'll get this behind us. Let the Pro Tem, whatever he
4 wants, move this to the Floor, and it's taken up, and away we
5 go.

6
7 SENATOR CRAVEN: I have no objection with that
8 whatsoever.

9 My only problem is the fact that I have been given
10 direction by the Chairman that he wanted the matter held over.

11 SENATOR MELLO: Okay, fine. He's the boss.

12 SENATOR CRAVEN: Now, let's chisel away at that for a
13 moment.

14 How long can we hold it over?

15 SENATOR MELLO: My motion would be holding him over,
16 but it would be with the positive -- assuming that he would get,
17 you know, three votes or more from the Members that are here
18 today.

19 So, I'm sorry that we can't get ahold of the Pro Tem,
20 because he could --

21 SENATOR CRAVEN: He's probably in the Governor's
22 Office, I would assume.

23 SENATOR MELLO: Why don't we just delay action on
24 this for 30 minutes or so?

25 SENATOR CRAVEN: Do you want to do that? I think
26 that's a very good idea.

27 Do you think you could stand that?

28 MR. GIBBONS: Thirty minutes is piece of cake,

1 Senator.

2 SENATOR CRAVEN: All right, let's do it. We'll just
3 hold the matter in abeyance and try to find our President Pro
4 Tem.

5 Thank you very much.

6 Let's have a recess. We will be back at 4:00; that
7 gives us 17 minutes.

8 [Thereupon a brief recess was taken.]

9 CHAIRMAN ROBERTI: The Committee will reconvene.

10 There has been a request on the part of five Members
11 to put your nomination over. This is not unusual. It happens,
12 like, 50 percent of the time.

13 We normally respect the request of a Member who would
14 like to see the nomination put over. However, I'm told they
15 want to put it over until December 3rd.

16 Without saying I don't want to do that, I think I
17 should talk too them before I say that, but I would say that I'd
18 put it over until August 26th, which is our last regularly
19 scheduled hearing, at which time we'll take your confirmation up
20 gain.

21 SENATOR CRAVEN: Mr. President.

22 CHAIRMAN ROBERTI: Yes.

23 SENATOR CRAVEN: I'm aware of the five Senators to
24 whom you have referred.

25 It is my understanding from one of the staff of the
26 Department that the nominee, Mr. Gibbons, has met with those
27 five persons.
28

1 Well, I should let him tell you what the situation
2 is.

3 MR. GIBBONS: Yes, Mr. Chairman.

4 I've met with all five of the Senators, Senator Keene
5 as well. And we went over issues that they were interested in.

6 My own feeling is that none of them substantive, but
7 I'm prepared to talk again with any Senator who's interested.

8 CHAIRMAN ROBERTI: Only one of the Senators actually
9 had a lengthy conversation with me concerning the issues that
10 he's concerned about. I think that deal with personnel
11 transfers --

12 MS. MICHEL: That was discussed.

13 CHAIRMAN ROBERTI: -- personnel transfers that
14 probably, in the Senator's mind, also were substantive as to
15 policy as well.

16 I do not consider myself expert to even raise the
17 details of the question at this point.

18 SENATOR CRAVEN: That was brought up. As a matter of
19 fact, that was the first thing asked about today.

20 CHAIRMAN ROBERTI: I was in the Governor's Office.
21 Unfortunately, I couldn't be here for the bulk of the hearing.

22 SENATOR CRAVEN: The hearing, as a matter of fact, I
23 thought was quite good. There was nothing acrimonious bout it
24 whatsoever.

25 Senator Mello had expressed an opinion of support, as
26 had Senator Beverly, I believe, and I have myself.

27 CHAIRMAN ROBERTI: My wish would be -- but I want the
28

1 Members to feel free to vote whichever way they want. This
2 isn't a command, even if I could issue one -- my wish would be
3 to put this over until the 26th.
4

5 The concerns of five Senators are just things that I
6 don't want to take lightly, and that's normally what I would do
7 to respect their wishes.

8 If any of the Members feel strongly the other way, I
9 won't be personally offended, but I think it's a judgment call
10 on my part as far as accommodating the House is concerned.

11 SENATOR CRAVEN: Well, Mr. Chairman, as far as I'm
12 concerned, that is basically what I was trying to do. I didn't
13 want to foreclose the instruction that we had received from you,
14 but I think that that would give ample time for these Senators.

15 CHAIRMAN ROBERTI: And then we'll take it up on the
16 26th.

17 They'll probably still want -- it's conceivable they
18 would still want to hold you up until December 3rd. I don't
19 want to tell you what I would do, but then at that point I'm
20 sure there will be a vote.

21 But we normally do delay at the request of a Senator
22 -- usually of one Senator, this is five -- on a position of
23 importance, and certainly yours is one of those positions that
24 is watched carefully because it's a policy area that all of us
25 view as important, and many of the Members take a personal
26 interest in Fish and Game and related issues.

27 SENATOR CRAVEN: Then may we --

28 CHAIRMAN ROBERTI: Just on the call of the Chair,

1 we'll put it over for two weeks, until the 26th of August.

2 Without objection.

3 SENATOR CRAVEN: No objection.

4 CHAIRMAN ROBERTI: Without objection, such will be
5 the order.

6 Thank you very much. Maybe if you speak to them,
7 clear it up again, if there is anything to be cleared up.

8 MR. GIBBONS: Thank you, Mr. Chairman.

9 CHAIRMAN ROBERTI: The next nomination is Bryan Gunn,
10 Warden of the California State Prison at Calipatria.

11 Mr. Gunn, we will ask you what we ask all the
12 Governor's appointees, and that is why you feel you're qualified
13 to assume this position?

14 MR. GUNN: I'd like to thank the Chairman, Members of
15 the Senate Rules Committee, for the opportunity to share my
16 qualifications with you.

17 Currently, I'm the Warden of the Calipatria State
18 Prison in the Imperial Valley, California.

19 I started in the Department October of 1968, so this
20 October will be my 24th year. I worked my way up through the
21 ranks, starting as a correctional officer. I've served as a
22 sergeant, lieutenant, captain, program administrator, associate
23 warden, chief deputy warden, and now I'm warden.

24 I worked in seven different institutions and prisons
25 in this state during my career, plus two headquarters'
26 assignments: one as the Administrator of Correctional Training
27 at the Academy in Galt, California, from 1983-85; and the other
28

1 as the Chief of the Department of Training from 1986-87.

2 We opened the prison at Calipatria January 2nd, 1992.

3 We've been open roughly seven and a half months. We now have
4 3,000 maximum security inmates in that prison.

5 In terms of my education, I've worked my way through
6 school. When I started, I had a high school education; worked
7 my way through four years of college with a Bachelor's in Public
8 Service Management. I also have a community college teaching
9 credential in public services administration.

10 We now have a fully functional prison. We're still
11 in our activation stage, which means we're still receiving
12 inmates.

13 We have a fully functional citizens advisory
14 committee down there. We have very, very strong public support
15 in the Imperial Valley. They've been very good to us and open
16 with us. We've worked very hard to maintain a good relationship
17 with them.

18 I have started several programs at the prison while
19 we were activating. We have our literacy program underway; we
20 have our Arts in Corrections program underway. We have
21 vocational and academic training underway, and in the very near
22 future, once we've received the entire complement of inmates
23 that the Department sees fit to send me, then we'll have all of
24 our programs in place.

25 By inclination, by training, by education, and by
26 desire, I feel that I'm qualified for this position. I've gone
27 through the steps that the Department and I feel are necessary
28

1 to get the experience to run this type of a facility.

2 We're one of the newly designed prisons. It's a very
3 large facility.

4 We have an interesting climate down there in the
5 Imperial Valley. We've got 115 degree daily temperature or
6 above. We have sand storms on occasion, a lot of insect life.

7 [Laughter.]

8 MR. GUNN: A lot of interesting things to contend
9 with down there.

10 But I've never in my career have met such nice people
11 as in that Valley. They really wanted us there, and have been
12 very supportive. We're very, very happy to be there.

13 CHAIRMAN ROBERTI: Where is Calipatria?

14 MR. GUNN: Calipatria, it's 14 miles north of
15 Brawley, which is itself 15 miles north of El Centro.

16 CHAIRMAN ROBERTI: Oh, yes, now I know; the garden
17 spot; Salton Sea country.

18 MR. GUNN: That's right, Salton Sea.

19 SENATOR CRAVEN: As someone who used to represent
20 that area, I know quite well, and I know exactly exactly what
21 this gentleman is talking about.

22 If you get promoted out of there, you go to the
23 French Foreign Legion.

24 [Laughter.]

25 MR. GUNN: In any event, I'm happy to be there. I
26 have very, very good staff who are working very hard.

27 I feel with those qualifications that I can continue
28

1 to do a good job there.

2 Thank you.

3 SENATOR CRAVEN: I'm happy to move the confirmation.

4 CHAIRMAN ROBERTI: Senator Cravens has a motion to
5 recommend Mr. Gunn's confirmation, Warden, Calipatria, to the
6 Floor.

7 Any other questions?

8 Is there any support or opposition?

9 Our hearings on Corrections officials either are the
10 longest ever or very short.

11 SENATOR CRAVEN: Let's hope we can follow the latter.

12 CHAIRMAN ROBERTI: I think you're lucky, Gunn,
13 coming into the very short category.

14 SENATOR CRAVEN: I just wanted to say that the
15 representative of the Association of Black Correctional Officers
16 has said that they were supportive of all the candidates.

17 CHAIRMAN ROBERTI: Thank you; that's very good to
18 know.

19 Then Senator Craven's motion is before us.

20 The Secretary will call the roll.

21 SECRETARY WEBB: Senator Beverly.

22 SENATOR BEVERLY: Aye.

23 SECRETARY WEBB: Beverly Aye.

24 Senator Mello.

25 SENATOR MELLO: Aye.

26 SECRETARY WEBB: Mello Aye.

27 Senator Petris.
28

1 SENATOR PETRIS: Aye.

2 SECRETARY WEBB: Petris Aye.

3 Senator Craven.

4 SENATOR CRAVEN: Aye.

5 SECRETARY WEBB: Craven Aye.

6 Senator Roberti.

7 CHAIRMAN ROBERTI: Aye.

8 SECRETARY WEBB: Roberti Aye.

9 CHAIRMAN ROBERTI: The vote is five to zero;
10 confirmation's recommended to the Floor.

11 Congratulations.

12 MR. GUNN: Thank you very much.

13 CHAIRMAN ROBERTI: Michael T. Pickett, Warden,
14 California Institution for Men.

15 Mr. Pickett, we will ask you the question we ask all
16 the Governor's appointees, and that is why you feel you're
17 qualified to assume this position?

18 MR. PICKETT: Mr. Chairman and Senators, I appreciate
19 the opportunity to appear before you and to enumerate my
20 qualifications for the job.

21 I have 23 years with the Department of Corrections,
22 the last seven of those years as a mid or high-level manager. I
23 began my career in 1969 as a correctional officer in San
24 Quentin. I subsequently worked and promoted my way up through
25 the ranks to my current position as the Warden for approximately
26 the last year at the California Institution for Men.

27 During my early part of my career, I pursued my
28

1 academic upgrading, receiving my Bachelor of Science Degree in
2 police administration at Cal State University, Los Angeles in
3 1973.

4 During my career, I've had the opportunity to have a
5 positive impact in a number of different areas. I think the
6 chief of which, and I am the proudest of, is, I was instrumental
7 in implementing the current ethics program and the -- creating
8 the organizational values statement that the Department of
9 Corrections uses. The ethics program remains in effect at this
10 time for both managers and virtually all staff within the
11 Department.

12 I bring with me the qualifications, both as having
13 worked in the institutions, approximately five years in the
14 Parole Division in Los Angeles. I've spend approximately seven
15 and a half years as investigator, both as senior agent and
16 special agent with our Investigative Services in Los Angeles and
17 the greater Bay Area.

18 I bring with me, I believe, a well-rounded background
19 with headquarters experience, institution experience, and parole
20 experience. I feel that broad base of experience has set me in
21 good stead for the duties that I have at this time.

22 Thank you.

23 CHAIRMAN ROBERTI: Any questions?

24 Is there any support or opposition in the audience?

25 SENATOR CRAVEN: Move.

26 CHAIRMAN ROBERTI: Senator Craven moves that
27 confirmation be recommended.
28

1 I have somebody who raised his hand.

2 FROM THE AUDIENCE: I have opposition, but I gave a
3 statement to your secretary.

4 CHAIRMAN ROBERTI: You do have a statement before us.
5 Do the Members of the Committee have a copy of that
6 statement?

7 MS. MICHEL: It came just before we came to
8 Committee. There is no copy. You do not have it.

9 Mr. McClure came into the office just before we came
10 into Committee.

11 CHAIRMAN ROBERTI: Yes, we do have your statement,
12 Mr. McClure.

13 We will vote today on Mr. Pickett's confirmation.
14 What we normally do, however, is, we hold the confirmation on
15 the Floor for two weeks. That will give everybody a chance to
16 review statements, additional support letters, additional
17 opposition letters, and well make sure that your letter is
18 distributed to the Members of the Committee.

19 But in the meantime, we will vote on the matter now.
20 Senator Craven moves that the confirmation be recommended to the
21 Floor.

22 Secretary will call the roll.

23 SECRETARY WEBB: Senator Beverly.

24 SENATOR BEVERLY: Aye.

25 SECRETARY WEBB: Beverly Aye.

26 Senator Mello.

27 SENATOR MELLO: Aye.
28

1 SECRETARY WEBB: Mello Aye.

2 Senator Petris.

3 SENATOR PETRIS: Aye.

4 SECRETARY WEBB: Petris Aye.

5 Senator Craven.

6 SENATOR CRAVEN: Aye.

7 SECRETARY WEBB: Craven Aye.

8 Senator Roberti.

9 CHAIRMAN ROBERTI: Aye.

10 SECRETARY WEBB: Roberti Aye.

11 CHAIRMAN ROBERTI: The vote is five to zero;
12 confirmation is recommended to the Floor.

13 To all the nominees, to let them know, we do hold
14 these for two weeks on the Floor.

15 MR. PICKETT: Thank you.

16 CHAIRMAN ROBERTI: We have one more prison official,
17 so I think I'll take that one up, since that's what we're doing
18 right now. After that we'll go to Mr. Rivinius, Community
19 Colleges.

20 I'd like to take up Theo White, Warden of Chuckawalla
21 Valley State Prison.

22 Mr. White, we'll ask you the same question we asked
23 the others, and that is why you feel you're qualified to assume
24 this position?

25 MR. WHITE: Thank you, Mr. Chairman; thank you,
26 Committee Members.

27 I have 28 years in the Department of Corrections. I
28

1 worked in a variety of positions. I started my career in kind
2 of in a nontraditional way. I started out in the medical field;
3 I started out as an x-ray technologist. I was promoted to
4 senior x-ray technologist, supervisor of vocational education,
5 supervisor of correctional education, associate warden, chief
6 deputy warden, and currently I'm in the position of Warden at
7 CVSP, which is Chuckawalla Valley in Blythe.

8
9 I have a Bachelor's Degree from Cal State Long Beach
10 in education. I have a Master's of Arts Degree from Orange
11 College -- I'm sorry, from Chapman College in Orange. It has
12 later been upgraded to a university. I also have a M.S. Degree
13 in educational administration from California State University
14 at Fullerton.

15 Today's prisons are rather complex, and I feel that
16 my diverse background has prepared me rather well for the
17 position of Warden. Even though the primary function of a
18 prison is to maintain those who have been sent -- admitted by
19 the courts in a secure manner, there are many other activities
20 that must also take place to be sure that the prisons are
21 operating in a safe, secure manner. Those include education,
22 both academic and vocational, Arts in Corrections, and a host of
23 other self-help programs, such as NA and AA programs.

24 I could cite many individual accomplishments, but
25 none would be as great or as significant as my ability to work
26 with people. I think that's the key. Any successful
27 organization that shows continuous progress, the manager is one
28 who has the ability to work with, supervise, and manage people.

1 I have those skills.

2 Chuckawalla Valley is located in southeast section of
3 Riverside County. We're the largest employer in the area.
4 About 75 -- I'm sorry -- 25 percent of the employees are local
5 people, which gives a very big boost to the economy. We are
6 very well received in the community. We have a very active
7 trade advisory council and a very active TAC.
8

9 My prison is run very smoothly, and I feel that with
10 the continued support of this Committee, it will continue to do
11 so.

12 CHAIRMAN ROBERTI: Thank you very much, Mr. White.
13 How many inmates?

14 MR. WHITE: We have 3200, sir, and 750 employees.

15 CHAIRMAN ROBERTI: What level of prisoner?

16 MR. WHITE: It's a Level II.

17 CHAIRMAN ROBERTI: Any other questions?

18 Is there anybody here in opposition?

19 Question, Senator Petris.

20 SENATOR PETRIS: Do you have any literacy programs
21 going on?

22 MR. WHITE: Yes, sir. We have a very excellent
23 literacy program.

24 SENATOR PETRIS: What percentage of the population
25 takes part?

26 MR. WHITE: In the overall Education Department, a
27 third of our inmates participate in education, and about 25
28 percent participate in the literacy program.

1 Our education program goes through literacy, ESL, ABE
2 Level I, Level II, and GED and high school.

3 SENATOR PETRIS: Has there ever been a study made on
4 the recidivism question, comparing those who become literate in
5 prison and those who don't take part as far as their rate of
6 recidivism is concerned?

7 MR. WHITE: Yes.

8 Many years ago, I participated in a study. I was a
9 part -- I was a member of a team that did a study. And our
10 results did unequivocally prove that a person who upgraded
11 himself tend to not come back as often as those who did not.

12 SENATOR PETRIS: Is that limited to one prison, or is
13 it the common experience around the state?

14 MR. WHITE: It's the common experience around the
15 state, I think.

16 SENATOR PETRIS: So it's proved itself?

17 MR. WHITE: Yes.

18 SENATOR PETRIS: Thank you.

19 CHAIRMAN ROBERTI: Do I have a motion?

20 SENATOR CRAVEN: Move, Mr. Chairman.

21 CHAIRMAN ROBERTI: Senator Craven moves Mr. White's
22 confirmation be recommended to the Floor.

23 Secretary will call the roll.

24 SECRETARY WEBB: Senator Beverly.

25 SENATOR BEVERLY: Aye.

26 SECRETARY WEBB: Beverly Aye.

27 Senator Mello.
28

1 SENATOR MELLO: Aye.

2 SECRETARY WEBB: Mello Aye.

3 Senator Petris.

4 SENATOR PETRIS: Aye.

5 SECRETARY WEBB: Petris Aye.

6 Senator Craven.

7 SENATOR CRAVEN: Aye.

8 SECRETARY WEBB: Craven Aye.

9 Senator Roberti.

10 CHAIRMAN ROBERTI: Aye.

11 SECRETARY WEBB: Roberti Aye.

12 CHAIRMAN ROBERTI: The vote is five to zero;
13 confirmation is recommended to the Floor.

14 Congratulations.

15 MR. WHITE: Thank you, sir.

16 CHAIRMAN ROBERTI: The next nomination is of Robert
17 H. Rivinius, Member of the Board of Governors of the California
18 Community Colleges.

19 Good to have you with us this afternoon.

20 MR. RIVINIUS: Thank you.

21 CHAIRMAN ROBERTI: We will ask you what we ask all
22 the Governor's appointees, and that is why you feel you're
23 qualified to assume this position?

24 MR. RIVINIUS: Thank you, Mr. Chairman and Members.

25 I was confirmed for this seat four years ago, so I
26 won't repeat what I told you back then.

27 CHAIRMAN ROBERTI: That's right.
28

1 MR. RIVINIUS: I would just state that I have served
2 for four years. As my term was expiring, I was elected Vice
3 President of the Board, which means if I stay out of trouble, I
4 may be elected President next year. That's the way it usually
5 goes, and I would like to serve through that.
6

7 This is just for a two-year term, so I would be off
8 the Board after that.

9 So, I would like to continue my service. I feel I've
10 made a contribution and would ask for your recommendation for
11 confirmation.

12 CHAIRMAN ROBERTI: Thank you.

13 I might point out, the Faculty Association of
14 California Community Colleges is in support.

15 SENATOR CRAVEN: Move Mr. Rivinius.

16 CHAIRMAN ROBERTI: Senator Craven moves confirmation
17 be recommended to the Floor.

18 Is there any support, opposition, observations?

19 Hearing none, Senator Craven's motion is before us.

20 Secretary will call the roll.

21 SECRETARY WEBB: Senator Beverly.

22 SENATOR BEVERLY: Aye.

23 SECRETARY WEBB: Beverly Aye.

24 Senator Mello.

25 SENATOR MELLO: Aye.

26 SECRETARY WEBB: Mello Aye.

27 Senator Petris.

28 SENATOR PETRIS: Aye.

1 SECRETARY WEBB: Petris Aye.

2 Senator Craven.

3 SENATOR CRAVEN: Aye.

4 SECRETARY WEBB: Craven Aye.

5 Senator Roberti.

6 CHAIRMAN ROBERTI: Aye.

7 SECRETARY WEBB: Roberti Aye.

8 CHAIRMAN ROBERTI: The vote is five to zero;
9 confirmation is recommended to the Floor.

10 Congratulations.

11 MR. RIVINIUS: Thank you.

12 [Thereupon this portion of the
13 Senate Rules Committee hearing
14 was terminated at approximately
15 4:30 P.M.]

16 --oo0oo--
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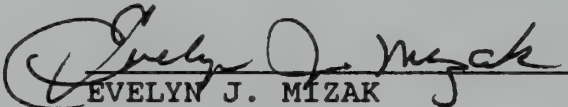
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of August, 1992.


EVELYN J. MIZAK
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HEARING
SENATE RULES COMMITTEE
STATE OF CALIFORNIA

Legislature



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WEDNESDAY, AUGUST 19, 1992
2:05 P.M.

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SENATE RULES COMMITTEE
STATE OF CALIFORNIA

HEARING

STATE CAPITOL
ROOM 3191
SACRAMENTO, CALIFORNIA

WEDNESDAY, AUGUST 19, 1992
2:05 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter

APPEARANCES

MEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR NICHOLAS PETRIS

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

DAVID M. CAFFREY, Member
Public Employment Relations Board

A. VERNON CONRAD, Member
California Regional Water Quality Control Board
Central Valley Region

SENATOR DAN MCCORQUODALE

ASSEMBLYMAN JIM COSTA

GEORGE ZENOVICH, Lobbyist

RICHARD L. HARRIMAN, President
Golden State Wildlife Federation

ANITA FAZEEL
Citizens Action Committee

DICK CAMPBELL, Real Estate Broker
Fresno County

CAMILLE WILLIAMS, M.D., Member
California Medical Board
Division of Licensing

APPEARANCES (CONTINUED)

HOWARD TOBIN, M.D.
American Academy of Cosmetic Surgeons

JAMES A. BOOKER, JR., M.D.
Torrance

GARY CARTER
Orinda

LARRY SCHOENROCK, M.D., Director
Division of Facial and Plastic Surgery
University of California at San Francisco

CAROL CAMPBELL
Mill Valley

KIYONI SANKARY

ROBERT WASHINGTON, M.D.
Anesthesiologist

FAYE SMITH

EARLINE GOODMAN

STEVEN STANTEN, M.D.
Orinda

WILLIAM DUNCAN II, Warden
California Mens Colony

LEON RALPH, Legislative Advocate
Association of Black Correctional Workers

IVALEE C.H. HENRY, Warden
Mule Creek State Prison

HOPE VASQUEZ
National Mexican-American Correctional Association

DONNA MCKINNEY, President
Women in Criminal Justice

GEORGE E. INGLE, Warden
California Medical Facility

ROBERT RIOS
LIFE AIDS Lobby

JIM LEWIS
ACT UP and CHAIN

APPEARANCES (CONTINUED)

ANNE WOOD, Client Services Coordinator
Sierra-Foothills AIDS Foundation

JAMES GOMEZ, Director
Department of Corrections

VELVA JOY HARRIS
Sierra-Foothills AIDS Foundation

ALAN LOFASO
AIDS Project Los Angeles

ELLEN YELLOWBIRD
ACT UP and CHAIN

FATHER PATRICK LESLIE, Catholic Chaplain
California Medical Facility

T. WARREN JACKSON, Member
Fair Employment and Housing Commission

PEGGY L. KERNAN, Warden
Solano County State Prison

SUSAN CHAFFER, Chapter President
CCPOA

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P-R-O-C-E-E-D-I-N-G-S

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1
2
3 SENATOR CRAVEN: I guess we can go right to the
4 appointees. Let's begin on Governor's appointees appearing
5 today, the first is David M. Caffrey, Member, Public Employment
6 Relations Board.

7
8 Mr. Caffrey, good afternoon. We'll ask you, please,
9 to state your name and tell us why you feel that you are
10 qualified for this very important post.

11 MR. CAFFREY: Thank you, Mr. Chairman, Members. My
12 name is David Caffrey. I was appointed to the Public Employment
13 Relations Board in January, following 20 years of experience in
14 state government. I spent approximately nine of those years in
15 the Department of Justice in a variety of positions, including
16 Chief Administrative Officer of the Department.

17 More recently, I served for nine years in the
18 Governor's Office as Governor Deukmejian's Administrative
19 Officer and Cabinet Secretary, and as Governor Wilson's Deputy
20 Chief of Staff for Administration last year, 1991.

21 Throughout my career in state government, this 20
22 years, I've worked on many challenging policy and administrative
23 issues, and they've required me to be developing sound
24 recommendations for the people I was working for, and on many
25 occasions, to make fair and intelligent decisions on my own.
26 And it is this background which I believe, this experience, has
27 prepared me well to serve as a member of the Public Employment
28 Relations Board.

1
2 As a member of the PERB Board, my primary
3 responsibility is to decide disputed cases in the labor
4 relations area that come to the Board. It's my responsibility
5 to thoroughly review the record of that case and to make a fair
6 and intelligent decision which is consistent with the labor law
7 framework within which the PERB operates.

8 But perhaps the best indicator I think I could point
9 to of my ability to serve as a member of the PERB Board is my
10 performance during the last seven and a half months when I've
11 actually been on the Board. During that time, I have
12 participated in approximately 40 formal Board decisions and
13 actions, and I believe that through those decisions and actions
14 I've demonstrated that I am a fair and effective member of the
15 Public Employment Relations Board.

16 Thank you.

17 SENATOR CRAVEN: Thank you.

18 Any questions? Senator Petris.

19 SENATOR PETRIS: First an aside. You replaced
20 Mr. Cunningham?

21 MR. CAFFREY: Yes, I did.

22 SENATOR PETRIS: Was he the Governor's education
23 person prior to that?

24 MR. CAFFREY: No.

25 SENATOR PETRIS: He was not the same Cunningham?

26 MR. CAFFREY: Alex Cunningham worked in the Toxics
27 Division.

28 SENATOR CRAVEN: He did a little bit of everything.

1 MR. CAFFREY: Yes.

2 You're thinking of Bill Cunningham, who was Governor
3 Deukmejian's education advisor for a few years.

4 SENATOR PETRIS: Thank you.

5 SENATOR CRAVEN: Al was a wonderful man. He had the
6 Office of Emergency Services --

7 MR. CAFFREY: Water Resources.

8 SENATOR CRAVEN: He worked very closely with Governor
9 Brown when Governor Brown was head man. He was a magnificent
10 person. Very sorely missed. He and I went to the same high
11 school, so I feel very close to him even though he's gone.

12 Go ahead, Nick.

13 SENATOR PETRIS: Thank you.

14 I'm interested in how you think the Board is
15 operating in your seven months of activity? I'm looking
16 particularly to find out if you think there are any major
17 weaknesses or areas that need improvement. And if so, what
18 improvements that you might suggest?

19 MR. CAFFREY: Well, it's been a most challenging
20 time, and it's continuing to be, Senator. And the challenges
21 that you're dealing with here with regard to the state budget,
22 of course, affect an agency like PERB, which is 100 percent
23 general fund.

24 About two years ago, we -- it's a small department.
25 We had about 87 positions. We're projected, when the budget is
26 finally resolved here, to have about 50 positions this year.

27 Now, that has demanded that every person, from the
28

1 Chairman of our Board down to the lowest level person in the
2 department, put forth extra effort and whatever creativity we
3 can muster to streamline our operations and still get the
4 product out.

5 For example, right now we're working with -- the
6 standard complement for our Board is five members. Previously,
7 each member had two legal advisors and a secretary. A total of
8 four positions per member, 20 for the Board. Right now we're
9 functioning with four Board members, three legal advisors and
10 two secretaries. So, you can see we're struggling with these
11 budget concerns.

12 We do have an advisory committee of our -- of the
13 constituents of the PERB, essentially made up of labor groups,
14 and University of California, CSU, and the state employer. And
15 we've been working with them to try and develop ways to
16 streamline our process, but it's very difficult because the
17 require -- we operate in a quasi-judicial fashion, and we have
18 to -- when cases are heard by our hearing officers, our
19 administrative law judges, you know, they need to be very
20 thorough. It's an evidentiary record that could go to court,
21 you know, if an appeal to the Board is further appealed to the
22 Court of Appeals. So, it's very difficult.

23 We've looked at everything from charging for just
24 about every possible service that the interests that appear
25 before us get from our department, to frankly, eliminating
26 somethings, where we just have to prioritize them out, such as
27 producing certain reports, or obtaining certain documents from
28

1 school districts around the state. There's 1100 of them, and
2 just the cataloguing of documents from all these school
3 districts can take a full position. So, we've had to --

4 SENATOR PETRIS: Is it fair to say that one
5 improvement would be to have more help?

6 MR. CAFFREY: Absolutely.

7 SENATOR PETRIS: Good luck.

8 [Laughter.]

9 MR. CAFFREY: It would also be fair to say it would
10 be a big improvement not to have any less help at this point.

11 SENATOR PETRIS: We know the feeling. We're very
12 familiar with that.

13 Now, when you worked for Governor Deukmejian, did
14 your duties include anything related to personnel, either the
15 Board itself or personnel matters?

16 MR. CAFFREY: The -- I generally concentrated on
17 exempt personnel matters involving the Governor's staff. Part
18 of my duties were as Administrative Officer to handle all that,
19 but no -- other than exempt employment matters --

20 SENATOR PETRIS: Nothing that comes to this Board?

21 MR. CAFFREY: No, no.

22 SENATOR PETRIS: Thank you.

23 SENATOR CRAVEN: Anyone else?

24 Anyone in the audience wish to speak in favor of the
25 appointee? Anyone wish to speak in opposition? There appears
26 to be no one.

27 SENATOR PETRIS: Move it.
28

1
2 SENATOR CRAVEN: Senator Petris moves. Call the
3 roll.

4 SECRETARY WEBB: Senator Beverly.

5 SENATOR BEVERLY: Aye.

6 SECRETARY WEBB: Beverly Aye.

7 Senator Mello. Senator Petris.

8 SENATOR PETRIS: Aye.

9 SECRETARY WEBB: Petris Aye.

10 Senator Craven.

11 SENATOR CRAVEN: Aye.

12 SECRETARY WEBB: Craven Aye.

13 Senator Roberti.

14 Three to zero.

15 SENATOR CRAVEN: Why don't we leave the roll open on
16 that. We've got it out three-zero, but I think the other
17 Members would like to be on the vote if at all possible.

18 MR. CAFFREY: Thank you very much.

19 SENATOR CRAVEN: Thank you very much, Mr. Caffrey.
20 Congratulations.

21 [Thereupon the Senate Rules
22 Committee acted upon legislative
23 agenda items.]

24 SENATOR BEVERLY: Next item is the confirmation of A.
25 Vernon Conrad, Member of the California Regional Water Quality
26 Control Board.

27 Why don't you come forward. I know Mr. Costa wants
28 to be here. We'll give him an opportunity to speak when he

1 arrives.

2
3 Mr. Conrad, the first question we always ask all of
4 the Governor's appointees is to tell us briefly why they feel
5 they're qualified for this post.

6 MR. CONRAD: Mr. Chairman and Senators, my name is A.
7 Vernon Conrad. I've been appointed by the Governor to represent
8 -- as a representative from the supervisorial slot on the
9 Central Valley Regional Water Quality Control Board.

10 I think that my past experience has qualified me to
11 take this position. I am now serving my third term as
12 Supervisor of Fresno County, the first Supervisor to represent
13 my district in over 60 years to have that privilege of having a
14 third term. I've served as Chairman of the Board of Supervisors
15 in 1984 and 1989. I also served representing Fresno County on
16 the Med Valley Water Authority, West County Solid Waste Planning
17 Commission, LAFCO, the San Joaquin Valley Supervisors
18 Association, Chair of the Highway Task Force, the Southeast
19 Regional Solid Waste Commission, County Supervisors Association
20 of California, Chair of the Ag. and Natural Resources Committee.

21 I have served in the past as president and member of
22 the Alta Irrigation District, Director of Natural Resources on
23 the Committee of the American Farm Bureau, Chair of the Water
24 Committee for California Farm Bureau for a number of years. And
25 I've served as Chairman of the Fresno County Farm Bureau for two
26 terms.

27 I've also served on the Board of Directors of the
28 Kings River Conservation District, the Executive Committee of

1 the Kings River Water Association, and a member of the Pesticide
2 Advisory Group of the California Department of Food and
3 Agriculture.

4 I have a strong feeling that water and usable
5 quantities and quality is the key to California's future, and I
6 think that I am qualified to serve in this position.

7 SENATOR BEVERLY: Thank you.

8 Any questions of the Members of the Rules Committee?
9 Senator Petris.

10 SENATOR PETRIS: One of our Members did a survey a
11 couple years ago, maybe it was last year, of all the regional
12 boards to find out how they were doing in their enforcement. He
13 found they were very, very lax. There were very few fines, and
14 those that were imposed, speaking statewide now, compared to
15 what the law provided as a maximum, were far closer to the
16 minimum.

17 I don't know the particular situation in your
18 district. Can you comment on what the enforcement actions have
19 been since you've been on the Board?

20 MR. CONRAD: Senator, since I've been on the Board, I
21 don't think that has been the case. In our situation, we have
22 levied fines, I think, sometimes much greater than what staff
23 has suggested that we levy the fines --

24 SENATOR PETRIS: Can you give me some --

25 MR. CONRAD: -- commensurate with the problem that is
26 created, I strongly believe that we need to correct problems
27 and a fine, sometimes, is the only way to get people's
28

1 attention.

2 SENATOR PETRIS: Can you give me an idea of the range
3 of fines?

4 MR. CONRAD: Well, I think fines have ranged -- and I
5 am going to have to kind of -- we have levied fines all the way
6 from 30,000 up, and I'm not sure what the top -- I wouldn't
7 quote the top figure because I don't know that.

8 SENATOR PETRIS: What would your assessment of the
9 present quality of water be in your area right now? Is the
10 quality of the water up to satisfaction or not?

11 MR. CONRAD: I don't think so. I think that we're
12 going to have to do a lot to raise the quality of water in a lot
13 of areas.

14 I have been a strong supporter of using tertiary
15 treated sewer water. I think that's a necessity. I really feel
16 that in order to accommodate the population that we see in
17 California, and the growth that we're seeing, we're going to
18 have to do everything that's possible to maintain the quality of
19 the water that we have, along with the wise use of the water.

20 SENATOR PETRIS: Is your county affected by the
21 federal statute on abatement of toxics being discharged into the
22 waters? I forget the title of that federal statute.

23 MR. CONRAD: I think all counties are somewhat -- as
24 far as the county receiving a permit, is that what you're
25 referring to?

26 SENATOR PETRIS: Well, it's usually addressed to the
27 local water quality water district, but it's supposed to be
28

1 created through the county through the Board of Supervisors.

2 MR. CONRAD: Our county does not have a -- any
3 discharge permits, the county itself.

4 SENATOR PETRIS: Who has jurisdiction, the local
5 water district?

6 MR. CONRAD: Local water districts have most of the
7 jurisdiction, some of the cities.

8 SENATOR PETRIS: Do you have a clear policy now on
9 waste discharge in your area?

10 MR. CONRAD: Certainly. I'm -- we're complying with
11 the law, and it's not allowed.

12 SENATOR PETRIS: What do you see as the worst
13 problems that you're still confronting, if any?

14 MR. CONRAD: Well, I think the drought has created a
15 significant problem that the quality of water, the underground
16 water is depredated, and usage of water and the water run-off
17 has to be addressed. And in cases that it has been depreciated,
18 it has to be brought back into the usable condition.

19 SENATOR PETRIS: Does underground water management
20 come under your agenda?

21 MR. CONRAD: Not to my knowledge.

22 SENATOR PETRIS: As a conservation measure to
23 replenish? You haven't gone into that?

24 MR. CONRAD: We have not gone into that. I would say
25 that during my tenure on the Board of Alta Irrigation District,
26 I was instrumental in getting their recharge program started,
27 where all of the users pay a fee to achieve recharge in those
28

1 years that there's water that's available.

2 SENATOR PETRIS: Thank you.

3 SENATOR CRAVEN: Anyone else? Senator McCorquodale.

4 SENATOR MCCORQUODALE: Mr. Chairman, I don't know
5 Mr. Costa's schedule. If he's on a schedule, maybe you'd want
6 to let him comment, if he wanted to leave.

7 SENATOR BEVERLY: He had wanted to introduce the
8 gentleman.

9 SENATOR CRAVEN: Very nice to have you with us. If
10 you'd care to make some comment, fine.

11 ASSEMBLYMAN COSTA: Briefly, Mr. Chairman, Members of
12 the Rules Committee, I want to thank you for allowing me --
13 while I didn't quite make it in time to introduce Supervisor
14 Conrad, I have known him for a period of over 16 years, both in
15 his capacity as a farmer, as a leader within various
16 organizations in our county, and as a member of the Board of
17 Supervisors.

18 During that time, I have found him to be accessible.
19 I have found him to be not only conscientious but sincere and
20 very open in his attempt to try to hear all sides on any given
21 issues as he attempts to carry out his own responsibilities in
22 the positions that he has served in.

23 As such, while Mr. Conrad and I have not agreed on
24 every single issue over that period of time, while we've had our
25 differences on various issues, I nonetheless believe that he
26 would do a good job as the appointment that the Governor has
27 recommended him for and would serve on the Water Quality
28

1 District Regional Board in a fashion that would be fair-minded,
2 and would discharge those responsibilities to the best of his
3 ability. I have not doubt about those factors.

4 He and I, as the former Chairman on the Assembly
5 Committee on Water, Parks and Wildlife, have had numerous
6 discussions and involvement with one another on water-related
7 issues for not only the Valley but for the state. He
8 understands, as do, I think, most people who are familiar with
9 water-related issues, that if we are to balance both the
10 short-term and long-term water needs in this state, we have to
11 comply with five basic common sense tools to being good
12 custodians and stewards of our water resources. That is that we
13 have to balance our short-term and long-term needs with five
14 basic management tools, and they involve water conservation;
15 they involve water development; they involve water reclamation;
16 they involved water recharge; and they involve water transfers.
17 And it's not just one of those by themselves that are going to
18 solve our short-term and long-term water needs in terms of
19 quantity, but also in terms of quality it's the balancing of
20 those five management tools that will allow us to plan and
21 develop compromise and consensus over the long term.

22 I think that without hesitancy, I would adhere to
23 recommend and introduce to you a gentleman that I've known for
24 some 16 years.

25 SENATOR CRAVEN: Thank you very much, Assemblyman
26 Costa.

27 Now, Senator McCorquodale.
28

1 SENATOR MCCORQUODALE: Thank you, Mr. Chairman. I
2 appreciate the chance to join you for few minutes this
3 afternoon to raise some issues during Supervisor Conrad's
4 confirmation hearing.
5

6 I had an opportunity to meet with him yesterday and
7 found him to be forthright and very concerned about many of the
8 issues that I raised, but I thought that I should come raise
9 some, because in my opinion, the Central Valley Regional Water
10 Quality Control Board is sort of a regulatory agency that's
11 running amok. On the one hand, it over regulates and creates
12 problems, and on the other hand, it's very lax, and it doesn't
13 seem to have very much of a philosophy or mission that's very
14 well stated. And so, the only hope I see for that is that the
15 members that are appointed or re-appointed come to grips with
16 the problems that I think are there.

17 The Central Valley is very -- water, as was pointed
18 out, is a very critical issue. On the one hand, you have to
19 conserve, and to ensure that the water that is available and
20 there is clean, is -- and meets standards for use. And on the
21 other hand, that the availability of that water is not damaged
22 by other actions that might take place.

23 Recently, the Natural Resources and Wildlife
24 Committee held a hearing on the Penn Mine Issue, which is a mine
25 that's an abandoned mine above Commanche Reservoir in the
26 Valley, and that is causing a serious pollution problem.

27 The district, the Regional Board, in conjunction with
28 an operator some years ago formed a plan to deal with that, and

1 sort of seems to have bought into the issue of how they're going
2 to manage this, but they've become more -- less of a regulator
3 and more of an operator.

4 I just wanted -- and Senator Johnston and I just
5 wrote a letter recently to the Board and to the Executive
6 Officer, urging that Mr. Steve Bond, who, after he testified
7 before the Natural Resources Committee, was removed from his
8 position of dealing with the Penn Mine project and given the job
9 in the underground tank issue, completely separate, and was
10 given a memo that he could no longer be involved at all in the
11 Penn Mine issue.

12 He has a lot of information, and I think generally
13 both sides -- both the regulated agency as well as the federal
14 and state agencies that have dealt with it -- feel Mr. Bond is a
15 good person and very knowledgeable in that issue.

16 We've asked that he be put on the committee that --
17 the oversight committee for the cleaning up of that project.

18 I wondered if you'd had a chance to gain enough
19 knowledge about that that you could say whether you could feel
20 comfortable in supporting Mr. Bond being a member of the
21 committee. He'd still work -- he would not be working directly
22 with it. This is a committee made up of federal, local and
23 state agencies, and it would put -- but it would put his
24 expertise in a position of being known, of being available.

25 Have you had a chance to review that?

26 MR. CONRAD: I really haven't, Senator, but I firmly
27 believe that those of us that are in a position of making
28

1 decisions need to have all of the facts at hand. And I would
2 certainly welcome any information. I'm not suggesting that
3 information go around the staff at all, but I would certainly
4 welcome any information and that information being copied to
5 myself and other Board members.

6 I think although we do have a large amount of
7 material to go through to prepare ourselves for those meetings,
8 I'm dedicated to whatever amount of time that takes, and I will
9 review all of the material.

10 I would rather not comment on personnel matters until
11 I have a thorough understanding of that. I'm a new kid on the
12 block, so to speak, and a lot of these things regarding Penn
13 Mine, in fact all of them, occurred prior to my coming on board.

14 I don't believe in -- I will say this, I don't
15 believe in personnel being chastised when they come forward with
16 information. I think that anyone that's in a quasi-judicial
17 role needs all of the information available.

18 SENATOR MCCORQUODALE: In the change of location of
19 Mr. Bond, they gave the reasons for his being removed, one of
20 them being that:

21 "Events surrounding the lawsuit
22 filed by the Committee to Save the
23 Mokolumne River on Penn Mine require
24 that the staff assigned to the
25 project be firmly committed to
26 support the Board's position. Your
27 association with parties who have
28

1 sued the Board comprises the Board's
2 position on the lawsuit."
3

4 When we had Mr. Crooks and the other administrative
5 people from the Board before the Committee, they all agreed that
6 they had no evidence that he had communicated or had given any
7 information that was privileged information to anyone outside,
8 but that was one of the issues and reasons that they reassigned
9 him.

10 How would you feel about that?

11 MR. CONRAD: Well, again, I want all of the facts,
12 and I don't think that hearsay is a reason to make an evaluation
13 of that nature.

14 I think anything that -- and I'm not sure how
15 extensive, but I know in other public meetings, all of the
16 information is public. I think it should be. And I would have
17 a certain concern about anybody being muzzled, so to speak.

18 SENATOR MCCORQUODALE: One additional issue that I
19 would raise with this one, just to give you an idea of what
20 you're going to be facing there, if nothing else, prior to
21 actually reassigning Mr. Bond, I suppose that they were
22 concerned about and wanted to establish some record. They sent
23 him -- they reprimanded him for five things, all of them related
24 to his working hours. Two of read:

25 "You're working more than eight
26 hours without prior approval."

27 I suppose in government, that's a heresy, that anybody would
28 work more than eight hours.

1 MR. CONRAD: I would like to have my employees that
2 dedicated.

3 SENATOR MCCORQUODALE: It goes on to say that he
4 worked two days in July at 11 hours and two days at 12 hours,
5 and two days at 12.5 hours.

6 Then the third one was:

7 "You're continuing to work Saturdays
8 and Sundays without approval."

9 Would that bother you a little that somebody would
10 get chastised for that?

11 MR. CONRAD: Yes, it does. I would hope that all
12 state employees would be --

13 SENATOR CRAVEN: Let me interject here, if I may.
14 Isn't it possible that persons working eleven and a
15 half hours are working overtime?

16 SENATOR MCCORQUODALE: They don't get overtime. It
17 was in relationship to a feeling that the District Board had or
18 the staff had that he had accumulated time that he used as flex
19 time. So, there was some question -- they have a flex time
20 operation on the Board, but --

21 SENATOR CRAVEN: I guess I understand that answer,
22 Dan, but you know, I'm you experienced it when you were a
23 supervisor, and you're a supervisor presently. You recognize
24 that the Public Works Department doesn't go out and just
25 arbitrarily work more hours just to make more money when it's
26 not authorized.

27 Isn't that correct?
28

1 MR. CONRAD: That's correct.

2 SENATOR McCORQUODALE: I don't think that overtime
3 was an issue, at least that was never raised to us.

4 One other area that I would like to just call to your
5 attention and get a reaction, there's a company called ADM
6 Company. They've had contracts with several Bay Area
7 municipalities to collect their waste water sludge, treat it,
8 then sell it as low cost fertilizer to farmers in the Valley,
9 primarily grazing land, and grape and tree fruit land.

10 The Food and Ag. Code specifically states that
11 agricultural products derived from municipal sewage sludge shall
12 not be regulated as waste. East Bay Municipal Utility District
13 and L.A. have similar sludge operations and don't have a permit
14 from the regional water boards.

15 Mr. Crooks, who's the Executive Officer, has insisted
16 that ADM get a permit. They said that they -- and he has in a
17 memo said that he's not regulated by the Ag. Code; he's only
18 regulated by the Water Code.

19 Took him a year, it's been over a year now, that
20 they've been processing that. Recently, Mr. Crooks has agreed
21 to allow a pilot program if the details can be worked out, so
22 they really haven't reached a point of giving him a permit.
23 He's lost a couple of the contracts for facilities in the Bay
24 Area.

25 How do you view recycled sludge? Do you think
26 there's a use for that in the agricultural process?

27 MR. CONRAD: I certainly do, as long as they can pass
28

1 the health related problems that are associated with it.

2 I am aware of other entities that are doing that,
3 bringing sludge from Southern California into the Valley.

4 SENATOR MCCORQUODALE: Now, health wouldn't be an
5 area that you would have the responsibility for, though, would
6 it? There are standards that are established, I understand
7 that, but --

8 MR. CONRAD: I have no problem with recycling
9 anything. I think that recycling whatever material we have is
10 certainly something that we have to look at and utilize to the
11 best efficiencies that we possibly can.

12 SENATOR MCCORQUODALE: What about the issue of only
13 being governed by the Water Code?

14 MR. CONRAD: I'd have to get some information in this
15 regard. I have a problem with any entity that's being treated
16 differently than any other entity of the same type. Fairness is
17 something that is incumbent upon us all.

18 SENATOR MCCORQUODALE: Would you view the
19 responsibilities of the Board and the staff of the the Regional
20 Board as having some need to be innovative in the use of
21 recycling and re-use of products, in this case water, for
22 fertilizer products, or something like that?

23 MR. CONRAD: I think that goes without saying, that
24 if we need to investigate new uses for things, and if it's
25 permissible, that that be allowed. And I say permissible, I
26 mean permissible by law.

27 SENATOR MCCORQUODALE: In the time, the four or five
28

1 months that you've been there, has the Board ever been apprised
2 of the ADM application? Has that surfaced to you, or did you
3 get any information on that?
4

5 MR. CONRAD: One -- one of these situations did come
6 before the Board, and I -- my memory does not define it as that
7 one. I'm not sure. I'd have to look at notes and see whether
8 that came before the Board.

9 We did have one that came in regards to -- they
10 already were doing a pilot program in the Dos Palos area, that
11 this material was, I believe, coming from the Bay Area. And I
12 believe the Board action in that case was to allow that to be
13 expanded.

14 SENATOR MCCORQUODALE: A very controversial activity
15 related to the Board has been whether projects that come before
16 the Regional Water Board have to have an EIR. There was an EIR
17 issue related to the Penn Mine, and there've been some others.

18 Are you familiar enough with CEQA to know when it
19 demands an EIR?

20 MR. CONRAD: Well, I think that's a judgmental
21 decision, but I think that anything that is -- has a great deal
22 of activity regarding it, whether it be controversial or there
23 are a lot of things involved, I'd prefer to have an EIR.

24 SENATOR MCCORQUODALE: So, if you felt there was a
25 need for one, you would not hesitate to require an EIR?

26 MR. CONRAD: Certainly not.

27 SENATOR MCCORQUODALE: Let me just get your reaction
28 in connection with some information that was sent to us in

1 connection with a public hearing on a general plan amendment in
2 Fresno County, in which the transcript indicates that you said:

3 "Well, Mr. Chairman, I'm going to
4 second that motion."

5 This was to proceed on without the EIR.

6 "I think this matter of requiring an
7 EIR is fine if you want to hassle
8 people, create as much problems for
9 them as you possibly can. I think
10 that's one way of doing it. I think
11 it's used almost on every project
12 with that purpose in mind."

13 Is that what you intended to say?

14 MR. CONRAD: I think that's what I intended to say in
15 this particular project. There's other projects very close to
16 that project that we have required EIRs on.

17 SENATOR MCCORQUODALE: This was pretty strong, where
18 you said:

19 "I think it's used almost on every
20 project with that purpose in mind."

21 MR. CONRAD: Well, I would think that that probably
22 was incorrect.

23 I think if you'll look at my voting record, you'll
24 find that I have voted to require EIRs on the majority of the
25 projects.

26 SENATOR MCCORQUODALE: One last comment, Mr.
27 Chairman, and then I'll be through.
28

1 This is a memo that was sent by Mr. Crooks to his top
2 -- his assistant, his deputy. He's talking about the Penn Mine
3 again. And they're talking about whether they should require a
4 rehabilitation plan for the Penn Mine. He ends it by saying:

5 "Your assignment is to talk to our
6 attorneys into doing nothing, or at
7 the most, giving East Bay Municipal
8 Utility District a permit to do
9 exactly what they're doing now.

10 Lots of luck on this one."

11 Is that an appropriate directive for the top person
12 to send to --

13 MR. CONRAD: I would think that that was not
14 appropriate.

15 SENATOR MCCORQUODALE: I only do that so you get an
16 idea of what you're getting into.

17 Well, I hope to communicate with you a lot, keep you
18 informed on issues that I see. I think that you are getting
19 into -- on a board here that is very critical in that it seems
20 to have a hard time finding its way on the good, solid path of
21 dealing with water quality, at the same time being able to make
22 maximum use of reclaimed water to the extent that it would be
23 good in the Valley to be able to do so because of the shortage
24 of water that's there.

25 MR. CONRAD: Senator, I have a policy that, as a
26 Supervisor, that my board -- my door is always open, within
27 certain limits, that the certain issues we are not allowed to
28

1 talk to people after things go before the Planning Commission.
2 That's a rule that our Board has adopted.

3 But I certainly like to know all the facts before I
4 make a decision.

5 SENATOR MCCORQUODALE: Thank you, Mr. Chairman.

6 SENATOR CRAVEN: Thank you.

7 Is there anyone in the audience who wishes to
8 testify? Yes, sir.

9 MR. ZENOVICH: Mr. Chairman, Members, George
10 Zenovich.

11 I'd just like to ask that you confirm Mr. Conrad.
12 He's a distinguished Supervisor in Fresno County, has been there
13 for many years.

14 When I was a Member of the Legislature, I always
15 considered him my expert on water issues, and always consulted
16 with him on water issues.

17 I think he would do a good job here. Thank you.

18 SENATOR CRAVEN: Thank you very much, Senator
19 Zenovich.

20 Anyone else who wishes to speak? Yes, sir.

21 MR. HARRIMAN: Mr. Chairman, Members of the
22 Committee, my name is Richard Harriman. I'm an attorney with
23 the firm of Harriman and Gabrielli, 1150 Ninth Street, Suite
24 1219, Modesto, California 95354.

25 I'm appearing this afternoon on behalf of the Golden
26 State Wildlife Federation, of which I'm the President. I'm also
27 the General Counsel for Citizens for a Healthy Environment, an
28

ecology action educational institute.

Since Supervisor Conrad is sitting next to me here, I want to make it absolutely clear that I do not intend my comments this afternoon to be personal or ad hominum in any way, but I have had a significant opportunity to observe Supervisor Conrad over a seven-year period in his role as a Supervisor, reviewing projects in Fresno County.

I have some grave reservations and concerns about his ability and commitment to meeting the mandate of the California Environmental Quality Act, and also meeting the mandate under the public trust doctrine enunciated by our Supreme Court in the National Audubon Society vs. Superior Court case, a 1983 case.

Let me tell you why so I can be brief. I know you're eager to move on, and the temperature here is such that it encourages us to do that.

I find Supervisor Conrad regularly to deminimize [sic] the importance of environmental impacts, specifically with respect to cumulative impacts. This is particularly important in the position for which he is being appointed, in that we are going to see large scale agricultural operations -- mega dairies -- which will have significant cumulative impacts on surface and ground water quality, and similarly, because we will see an ongoing debate and controversy involving water needs for natural habitat concerning fish and wildlife.

I have been present and appeared on the following projects in which I think there was substantial evidence presented, including evidence from staff, in which Supervisor

1 Conrad voted not to require an Environmental Impact Report, and
2 exhibited precisely the type of attitude and conduct exemplified
3 by Senator McCorquodale's testimony from other people: The
4 Donlevy Ranch Project; the Ball Ranch Project, which he also
5 approved that was -- required an EIR but there was substantial
6 evidence that that project should not proceed in view of CEQA
7 violations; the Harris, Donovan Harris Project; the Kesterson
8 Project; the Askins Projects; the Brighton Crest Project in
9 which the environmental review was completely defective.

10 We're very, very concerned about Supervisor Conrad
11 sitting on this Regional Board if he continues to ignore his
12 duty under CEQA and the public trust. Yet at the very least, if
13 this honorable committee elects to vote do pass on this
14 nomination, we would hope that Supervisor Conrad would be aware
15 of our strong concerns in these areas, particularly with respect
16 to large scale agriculture as it is coming into the Valley from
17 other areas.

18 SENATOR CRAVEN: Let me ask you a question, if I may.

19 MR. HARRIMAN: Certainly.

20 SENATOR CRAVEN: On those cases that you quoted, was
21 the Supervisor, or did the Supervisor prevail?

22 MR. HARRIMAN: Yes.

23 SENATOR CRAVEN: He did. So, in other words, he
24 wasn't the only person who thought in the manner in which you
25 have described.

26 MR. HARRIMAN: Absolutely not, Senator. And I
27 clearly acknowledge it, and I'll also say for Supervisor Conrad,
28

1 he's always treated me with great respect and deference as a
2 member of the public testifying before him.

3
4 SENATOR CRAVEN: Very good. You made that clear at
5 the outset; we understand.

6 MR. HARRIMAN: Thank you for the opportunity to
7 testify.

8 SENATOR CRAVEN: Our pleasure.

9 Anyone else? Yes, ma'am.

10 MS. FAZEEL: Members of the Senate Rules Committee,
11 my name is Anita Fazeel. I live at 614 East Woodhaven Lane,
12 Fresno, California.

13 I'm here speaking for the Citizens Action Committee
14 in opposition to the appointment of Vernon Conrad to the
15 Regional Water Quality Control Board. Our opposition is based
16 on his voting record, which goes against the guidelines of the
17 Fresno County General Plan and the California Environmental
18 Quality Act.

19 He has voted to approve urban level development in
20 rural areas which lack water to support such development.

21 I have quite a bit of information here which I will
22 not really go through, since Mr. Harriman went ahead and went
23 through some of that as far as CEQA and whatever. What I would
24 like to do is go back and address some of these applications
25 that he had voted to go ahead with approval, with the knowledge
26 of the staff not being in support of approval. That he was
27 aware, for instance, on General Plan Amendment 313, Donovan
28 Harris, Supervisor Conrad voted to approve this plan amendment

1 on March 31st without an EIR, despite the existence of massive
2 public controversy over wildlife and native plant impact and
3 groundwater impacts. And despite unanswered questions regarding
4 regional water supply, the waste water plant and sludge disposal
5 plant, et cetera.

6 On General Plan Amendment 367, Brent Kesterson was
7 the applicant. This Plan Amendment would convert planned
8 agricultural area to residential uses, creating 12,000
9 500-square foot residential parcels.

10 With the waste water disposal plant, no sludge
11 disposal capability and public water system. There would be 125
12 homes on 90 acres in areas where there are normally 20 acres to
13 one home is the ruling.

14 Fresno County General Plan policy states that this
15 area north of the Enterprise Canal does not even have sufficient
16 groundwater to support rural residential two-acre lots
17 development.

18 Vernon Conrad voted to approve this project on March
19 31st without an EIR, despite the existence of public controversy
20 over urbanization outside of existing spheres of influence.
21 There are unanswered questions regarding area-wide groundwater
22 impacts, waste water, and sludge disposal.

23 I can continue on, but there have been a number of
24 other incidents where his voting has indicated he's not
25 concerned about the water, the water issues that are available
26 to the general public. When he continues to vote for urban
27 development in rural residential areas.
28

1 SENATOR CRAVEN: Do you have a particular position
2 which would reflect a preference to agricultural zoning and use,
3 or do you move in the other direction?
4

5 MR. FAZEEL: Basically in the area that we're -- the
6 I'm discussing, northeast area of Fresno, it has been determined
7 there is not enough water in that area to do urban-type
8 developments. There is farming in that area, but it's being
9 turned into areas where, all of a sudden, it's clear two and a
10 half miles, say, out of town or even further, they're plopping
11 down an urban-type development.

12 The neighbors who live in that area have larger sites
13 -- ten acres -- have their own individual wells.

14 On one of the developments in particular, there was
15 not a good water study done. It proved that there was water for
16 that development, but it did not take into consideration what
17 would happen to the rest of the area, the neighbors in the area,
18 for the water.

19 SENATOR CRAVEN: I see, very good. Thank you.

20 MS. FAZEEL: Thank you.

21 SENATOR CRAVEN: Is there anyone else who wishes to
22 testify? Yes, sir.

23 MR. CAMPBELL: Good afternoon Members of the
24 Committee.

25 SENATOR CRAVEN: Good afternoon, sir.

26 MR. CAMPBELL: My name is Dick Campbell, and I'm a
27 real estate broker from Fresno. I reside and work in Fresno
28 County.

1 I'm also a member of the Concerned Citizens for the
2 Copra-San Joaquin area, which is an area that has approximately
3 19 subdivisions in process in planning or have been approved by
4 the County Board of Supervisors, an area where there's no water.

5 I'm opposed to Mr. Conrad's nomination to this very
6 important board. As a member of the Fresno County Board of
7 Supervisors, he's consistently demonstrated his inability to
8 fairly consider all aspects of a question and has flown in the
9 face of reason and the law to vote for special interests.

10 To illustrate, and I'm going to reiterate one of the
11 points that the Senator made.

12 SENATOR CRAVEN: Very well.

13 MR. CAMPBELL: On March the 10th of this year, an
14 appeal came before the Board of Supervisors concerning a
15 development whose approval had been recommended denial primarily
16 due to water concerns, but encompassing other environmental
17 impacts. The recommended denials came from Fresno County
18 Planning and Development staff, the Fresno County Public Works
19 Department, Fresno City Planning staff and Public Works
20 Department, the Fresno/Clovis Metropolitan Water Resources
21 Management Plan, and the total opposition of people in the area.

22 All of the above recommended denial, but stated that
23 if approved, the preparation of an EIR was necessary.

24 The Fresno County Planning Commission denied the
25 project. Upon appeal by the developer, the Board of Supervisors
26 approved the project by a three-to-two vote, with Mr. Conrad
27 voting for approval, and denied the need, in face of CEQA, for
28

1 an EIR, clearly a violation of the state law.

2 It is especially important to note Mr. Conrad's
3 thoughts on EIRs as he stated in seconding the motion to
4 approve, and I quote verbatim from Page 13 of the official
5 record of the hearing:

6 "Well, Mr. Chairman, I'm going to
7 second. And I think this matter of
8 requiring an EIR is fine if you want
9 to hassle people, create as much
10 problems for him as you possibly
11 can. I think that's one way of
12 doing it. I think it's used almost
13 on every project with that purpose
14 in mind."

15 I do not think the Legislature passed the CEQA to
16 hassle people.

17 You see his thoughts already formed on the question
18 of EIRs, which are required morally and legally when there's
19 doubt. "They are used to hassle people."

20 Members of the Committee, I beg you to deny this
21 applicant's appointment, because he's obviously unqualified to
22 serve all the parties' interests on such important issues as
23 water, California's greatest resource.

24 And I can submit in evidence a copy of the Board
25 proceedings on March the 10th, and a copy of the official tape
26 on which he made that statement, if it's required.

27 I have one other thing. A man by the name of Radley
28

1 Reep was due to come to testify, and he had a personal
2 emergency, and he asked me to read a statement. It's very
3 short.
4

5 SENATOR CRAVEN: This is the statement of Radley
6 Reep.

7 MR. CAMPBELL: It says:

8 "Dear Senator David Roberti,

9 "Mr. Vernon Conrad has been a
10 member of the Fresno County Board of
11 Supervisors for a number of years.
12 As a member of the Board, he
13 exercises discretionary authority
14 that is both broad and flexible.
15 However, his discretionary authority
16 is not without limitation. The
17 State of California places upon his
18 shoulders a fiduciary duty to see
19 that the laws of the state are fully
20 and fairly administered in the
21 County of Fresno.

22 "In 1985 I began to investigate
23 environmental damage along Fresno
24 County's river corridors. Over time
25 I learned that the damage is largely
26 the result of the failure of the
27 County to adequately implement the
28 Surface Mining and Reclamation Act

1 and the California Environmental
2 Quality Act, two of the state's
3 outstanding environmental statutes.
4 I have repeatedly brought the matter
5 to the attention of the Fresno
6 County Board of Supervisors, both
7 collectively and individually.
8 Vernon Conrad carries the
9 distinction of being the only
10 Supervisor to have declined to
11 discuss the matter. Not good.

12 "Failing to gain the
13 cooperation of the County Board of
14 Supervisors, I turned to the Office
15 of the Attorney General for
16 assistance. In a letter to Mr. Van
17 de Kamp dated January 20, 1989, I
18 stated the problem as follows: 'The
19 responsibility for carrying the
20 state's environmental mandate rests
21 with local government On
22 occasion, unfortunately, a local
23 government may ignore state laws
24 Such is the case with Fresno
25 County ... and the result has been
26 harm to people and property
27 Regulatory processes are in a stet
28

1 of disarray ... and it is clear that
2 the root of the problem is the
3 County's failure to comply with
4 state laws.'

5 "I have studied the state's
6 environmental statutes carefully. I
7 am pleased with the body of
8 environmental law the Legislature
9 has provided the people of this
10 state. But s you know, Senator
11 Oberti [sic], the effectiveness of
12 the state's laws depend upon the
13 willingness of the local officials
14 to fully administer those laws.

15 "Mr. Vernon Conrad is one of
16 those officials. When asked his
17 views on the County's administration
18 of state laws, the Fresno Bee
19 newspaper" --

20 And I have a copy I'll submit,
21

22 "... reported Mr. Conrad to have
23 candidly replied, 'I am sure that
24 Fresno County is adhering to the
25 spirit of the law Whether it
26 is within the letter of the law
27 might be another thing.'

28 "Since July 1990, operating

1 outside the letter of the law has
2 caused residents of the County to
3 file five environmental lawsuits
4 against the Fresno County Board of
5 Supervisors. I anticipate at least
6 two additional suits before this
7 year is out. Among other things,
8 these suits allege abuse of
9 discretion, illegality in
10 proceedings and unreasonable,
11 oppressive and unwarranted
12 interference with the full and
13 proper administration of state
14 laws."

15 Namely, CEQA.

16 "The purpose of this letter is
17 to inform the Senate Rules Committee
18 of severe difficulties being
19 experienced in Fresno County.
20 Having observed Mr. Conrad for the
21 past few years, it is my opinion
22 that he has contributed
23 unnecessarily to the difficulty. I
24 cannot endorse Mr. Conrad for a
25 position on the Regional Water
26 Quality Control Board. I strongly
27 recommend an exhaustive inquiry.
28

"Sincerely, Radley Reep."

I'll submit this letter.

SENATOR CRAVEN: Very well. The Sergeant will pick that up.

MR. CAMPBELL: Any questions, please.

SENATOR CRAVEN: Any questions of Members of the Committee? There appear to be none. There may be some more in the audience.

Thank you, Mr. Campbell, very much.

Does anyone else in the audience wish to testify?

Is Gary Langley in the audience? I had him listed.

MR. CAMPBELL: Mr. Langley's car broke down on the way up.

SENATOR CRAVEN: That's unfortunate, in a way.

[Laughter.]

SENATOR CRAVEN: I guess we have gone through that.

Senator Petris, do you have any comments at all?
Senator Mello? Senator Beverly?

Do you want to make comments, Supervisor, to rebut some of the comments made? We can give you that opportunity if you choose.

MR. CONRAD: Senator Craven, I think on my voting record, I would be glad to share with the Committee on all of the various issues.

There are some folks here that are not my supporters. I can't understand that everyone doesn't love me, but they don't.

1 So, I don't think I'm going to go into that. But I
2 will say that as far as any project, Fresno County has a policy
3 that water has to be -- significant water has to be determined
4 before any project can go forward. There's a lengthy process
5 that has to go through, and in some cases, an environmental, and
6 in one other -- two of the cases referred to here, the
7 environmental record was not required until at a later date,
8 when other things came into bearing. But that the environmental
9 assessment and -- would have been required in a couple of those
10 cases, and I think these folks know that very well.

11 SENATOR CRAVEN: Thank you very much.

12 Do I have a motion?

13 SENATOR BEVERLY: I'm prepared to make a motion,
14 Mr. Chairman, but we have a short Committee.

15 SENATOR CRAVEN: We can hold the roll open.

16 SENATOR BEVERLY: I move we recommend confirmation.

17 SENATOR CRAVEN: Senator Beverly moves. Call the
18 roll, please.

19 SECRETARY WEBB: Senator Beverly.

20 SENATOR BEVERLY: Aye.

21 SECRETARY WEBB: Beverly Aye.

22 Senator Mello. Senator Petris.

23 SENATOR PETRIS: No.

24 SECRETARY WEBB: Petris No.

25 Senator Craven.

26 SENATOR CRAVEN: Aye.

27 SECRETARY WEBB: Craven Aye.
28

1 Senator Roberti.

2 SENATOR MELLO: Mello No.

3 SECRETARY WEBB: Mello No.

4 Two to two.

5 SENATOR CRAVEN: We'll hold the roll open on this
6 item. The vote is two-two.

7 [Thereafter, Senator Mello's motion
8 for reconsideration was granted, and
9 the appointment was held over until
10 August 26.]

11 Thank you, Supervisor.

12 Let's take ten minutes.

13 [Thereupon a brief recess was taken.]

14 SENATOR CRAVEN: We'll resume the meeting of the
15 Senate Rules Committee.

16 Due to some logistical problems in the part of some
17 people who wish to testify on the appointment of Camille
18 Williams, Medical Doctor, Member of the California Medical
19 Board, Division of Licensing, I'm going to ask that we deviate
20 from the agenda as it's written and pick up that hearing at this
21 time to allow these people to testify and get their planes and
22 get back to where they came from.

23 So if we may, let's have Dr. Williams come forward,
24 and Dr. Williams is being considered for the California Medical
25 Board, Division of Licensing.

26 Doctor, please tell us why you feel you're qualified
27 for this position.
28

1 DR. WILLIAMS: Distinguished Members of the Senate
2 Rules Committee, it is a pleasure to appear before you. It is
3 an honor to be nominated by the Governor and supported by
4 numerous physicians, patients, and community leaders for my
5 appointment to the Medical Board of California.
6

7 With your support and confirmation, we will complete
8 the goal of making certain that patients are given quality care.

9 After working at St. Luke's Hospital in San Francisco
10 as a nutritionist for low-income pregnant teenagers, my
11 experience in medicine began in 1975, in the small town of La
12 Ceiba, Honduras, where I served as a volunteer in the emergency
13 room. Both my father and uncle were tailors. I had obtained an
14 undergraduate degree in home economics from Oregon State
15 University. I subsequently received my Master's Degree from the
16 University of California at Davis in consumer science.

17 When I arrived at the county hospital in La Ceiba,
18 Honduras, my real usable skills were either in cooking or in
19 sewing. Upon discovering that the kitchen was 90 degrees
20 Farenheit by 7:00 o'clock in the morning, I chose to assist the
21 surgeon in the emergency room.

22 Thus, from the little girl who helped her father and
23 uncle create fashions for big and tall men continued the
24 evolution of the surgeon you see here today.

25 I subsequently graduated from the University of
26 California at San Francisco Medical School. After internship
27 and general surgery training at the University of California at
28 San Francisco, I completed a residency program at Kaiser

1 Hospital in head and neck surgery, including one year as Chief
2 Resident.

3
4 Through the Stanford University Interplast plastic
5 surgery team, I was able to return to Honduras on three separate
6 occasions as part of a volunteer plastic surgery team to a
7 country that had only three plastic surgeons. Through the
8 American Academy of Facial, Plastic and Reconstructive Surgery,
9 I was one of the few American surgeons to be honored to train
10 with plastic surgeon Dr. Rudoulphe Meyer in Luzanne,
11 Switzerland. Dr. Meyer is past president of the International
12 Society of Aesthetic Plastic Surgeons.

13 I continued my training in Madrid, Spain, with
14 plastic surgeon Aldofo Montoya, who had also been trained by one
15 of the world's top plastic surgeons, Tessier of France, in
16 craniofacial and reconstructive surgery. I had met
17 Dr. Montoya when he was a Fellow at the University of California
18 at San Francisco in the Department of Plastic Surgery.

19 I'm a Graduate Fellow of the American Academy of
20 Facial Plastic and Reconstructive Surgery, and an active member
21 in a number of professional associations, including: the
22 American Medical Association; the American Academy of Cosmetic
23 Surgery; and the American Academy of Otolaryngology Head and
24 Neck Surgery. I have co-authored and published several medical
25 research articles in professional publications in the field of
26 plastic surgery and head and neck surgery.

27 I am also fluent in French and Spanish.

28 During the past eight months, I have had the

1 opportunity to address and to interface with organizations such
2 as the Golden State Medical Association at their 25th
3 anniversary convention, where I spoke about the future of
4 medicine in the year 2000, in a world of shrinking governmental
5 support and growing masses of needy people seeking primary care,
6 particularly California's growing minority population. This
7 community represents some 42 different languages and cultures
8

9 I also had the opportunity to speak to the Sinkler-
10 Miller Medical Association regarding the Medical Board of
11 California, helping to educate this very important and
12 prestigious Black professional organization to understand the
13 role and the importance of the Medical Board of California to
14 their practices and for their patients.

15 I have been serving on the Medical Board's Division
16 of Licensing. I and other members of the Division are
17 responsible for setting medical education requirements and
18 reviewing nonroutine license applications for physicians.

19 The Board's licensing process is not a rubber stamp,
20 but a form of preventative medicine to ensure all licensed
21 physicians have adequate education and training. We issue
22 licenses only to those physicians who meet California's high
23 standards.

24 Our specific goals are to determine that first-time
25 applicants have had adequate medical education and accredited
26 clinical training. We also determine that written and oral
27 exams used are valid and also comprehensive.

28 Physicians must keep up to date with continuing

1 education. It is the Division of Licensing's responsibility to
2 ensure that these courses that are taken by physicians are both
3 valid and productive. The Division of Licensing does not
4 oversee investigations, make disciplinary decisions, or oversee
5 allied health professionals.

6 Our mission is to ensure that physicians licensed to
7 meet California's requirements, to guarantee that they are
8 qualified to practice in our state.

9 In addition to the Division of Licensing duties, I
10 also serve on a number of subcommittees on the California
11 Medical Board. Allow me to share with you some of the special
12 committees that I have participated on during the eight months
13 on which I have served the Medical Board of California. As I
14 have tried to make the process more inclusionary in order to
15 broaden the Medical Board's constituency with a high quality
16 input of technical expertise for all specialties -- expertise
17 which has increased exponentially day-by-day as medicine rapidly
18 expands its knowledge base.

19 The Special Programs Committee of the Medical Board
20 of California on which I serve reviews requests for postgraduate
21 training through other than standard residency watch program as
22 allowed by law.

23 The intention of Non-physician Residency Training
24 Programs Committee is to review standards and procedures which
25 allows medical practice in the training setting. These two
26 programs are critical to any future California government has in
27 influencing non-mainstream populations into the profession.
28

1 The purpose of the Dental School Curriculum Review
2 Committee on which I serve is to assess the standard dental
3 school curriculum in view of an increase in requests to
4 substitute it for medical undergraduate curriculum.
5

6 The objective of the Surgeries in Unregulated
7 Outpatient Settings Committee was to conduct two public hearings
8 in order to receive comments from the public and interested
9 private and public organizations on the public risks of
10 surgeries in unregulated settings, and determine what further
11 public protections are needed.

12 I was privileged to be asked to draft the proposed
13 regulations for the Committee on Unregulated Outpatient Settings
14 after the chairman of that committee visited my surgery center
15 in Orinda, which he described as a model center.

16 While health care policy in our world is slowly
17 coming into the Twentieth Century, California has the unique
18 opportunity to take a leadership position. As one of the new
19 generation of female physicians who has built a successful
20 practice and business, my insights into the aforementioned
21 principles would, I hope, be invaluable to the decision process
22 needed. Perspective, balance, business acumen, and an unswerving
23 demand for technical competence are the qualities which are
24 called for in this arena.

25 Your confirmation of my appointment will allow me the
26 honor of continuing serve the public and helping promote and
27 optimize the superb quality care inherent in our medical
28 institutions and practitioners.

1 Thank you.

2 SENATOR CRAVEN: Thank you.

3 Do any Members of the Committee wish to make a
4 comment? Senator Petris.

5 SENATOR PETRIS: I'm happy; to say that she's from my
6 district, but not my recent district, thanks to the
7 reapportionment for the nicest part of the district.

8 Over the years, we've had a problem with a conflict
9 between the Board and the licensing part and foreign graduates.
10 They seem to go in cycles, depending on where the political
11 refugees are from, some of whom are doctors or medical students.
12 And they have a difficult time establishing their credentials
13 because the records aren't available. The most recent were the
14 Vietnamese, and you're probably aware of the council that was
15 set up to try to resolve that.

16 DR. WILLIAMS: Yes.

17 SENATOR PETRIS: Is that working out pretty well now?
18 The complainants felt that it was overall very heavily biased
19 against admission of doctors from other countries, and seemed to
20 be particularly disturbing with respect to Asians.

21 How is that council working out now?

22 DR. WILLIAMS: That particular issue was resolved.
23 It was resolved before I joined the Board.

24 But I think all members of the Board recognize that
25 we do have people in California that come from all over the
26 world, and they deserve the same opportunities as those that are
27 educated in California.
28

1 Our primary mission, though, is to protect the
2 public, and one of the avenues that the Board has been looking
3 at over a number of years is to, perhaps, add an extra course
4 for those people who are trained in settings other than those
5 that are approved by the Board, such as California and Canada.
6

7 SENATOR PETRIS: Is that the 1324 category?

8 DR. WILLIAMS: Yes.

9 SENATOR PETRIS: In that connection, it's been
10 suggested that one of the Board members has a conflict because
11 he operates one of those programs, the 1324, and at the same
12 time, he's making important decisions on the Board relating to
13 that group.

14 Have you observed any of that?

15 DR. WILLIAMS: No, I haven't. Anything that I've at
16 in on that I think you're speaking of, Dr. Ryder, he has excused
17 himself from voting on anything that he felt would be in direct
18 conflict.

19 SENATOR PETRIS: Is that a consistent policy of his?

20 DR. WILLIAMS: That's what I've seen since I've been
21 on the Board, yes.

22 SENATOR PETRIS: There's nothing left since that much
23 time has passed relating to the Vietnamese.

24 DR. WILLIAMS: I think that's been settled, yes.

25 SENATOR PETRIS: Thank you, Mr. Chairman.

26 SENATOR CRAVEN: Let's go to the audience and see if
27 there is someone who wishes to speak in favor of this appointee,
28 please come up and do so.

1 DR. TOBIN: Senator Craven, my name is Howard Tobin.
2 I'm honored to be here amongst you Senators. I wish I could
3 speak as well as Dr. Williams.
4

5 I'm a practicing plastic surgeon in Abilene, Texas.
6 When I was coming down to speak on behalf of Dr. Williams, I
7 consulted with a friend of mine on how I'd talk to such an
8 august body. He said, "Don't tell them you're a Texan. The
9 last thing those Californians want is a Texan coming down and
10 telling them how to run their affairs."

11 Then I called on Senator Grant Jones, one of the most
12 distinguished gentlemen in the Texas Senate. I said, "Grant,
13 I'm going to talk to some Senators in California. I don't know
14 how to address them." He said, "Howard, tell them the truth."
15 He said, "If they ask you any questions, answer them
16 truthfully."

17 Well, that's what I'll do, Senators.

18 Let me introduce myself. I'm the President-elect
19 and current Vice President of the American Academy of Plastic
20 Surgeons, which consists of 1400 member groups and educational
21 organizations that's primarily focusing on education in cosmetic
22 surgery. I also serve on the Board of Directors of
23 Accreditationary Ambulatory Health Care, the nation's largest
24 outpatient accrediting organization. I also serve on the
25 Stanford Surgery Procedure of that organization. Finally, I
26 served as representative of the American Medical Association to
27 the Department of Food and Drug Administration.

28 Camille Williams was a Fellow of the American

1 Cosmetic Surgery. I endorse her just on that basis, but I know
2 a lot more about Camille, and I can endorse her on a much more
3 personal basis.

4 Camille has already told you a little bit about her
5 background. I don't know if she conveyed how hard she's worked
6 to overcome a disadvantaged environment to bring herself up and
7 educate herself, and become the type of surgeon that she is now.
8 She's indeed a very remarkable individual.

9 Camille contacted me several years ago and asked to
10 come spend some time in my clinic to learn some procedures in
11 cosmetic surgery. She came down and observed. She was a very
12 diligent student, very wise. She had a lot of good ideas. An
13 interesting thing happened while Camille was down studying with
14 me. A Black lady who had been a patient of mine came to my
15 clinic and saw Camille standing by and starting talking about
16 her problem. Camille said, "Why don't you try it this way?" I
17 remember that, Camille, because I did try it that way and I got
18 a wonderful result. I learned from Camille.

19 So, Camille has a lot to offer. She has done a
20 wonderful job in both learning and educating. She's consulted
21 with me on a number of occasions, and I found that her interest
22 in the patient goes beyond what would be considered the norm.
23 She's greatly concerned about her patients, dedicated to
24 learning, and she's dedicated to knowledge.

25 I can assure you, Senators, if she's re-appointed to
26 this Board, she will not only be a credit to the Board, but
27 she'll be a credit to your selection, and a credit to the
28

1 citizens of California.

2 Thank you very much.

3 SENATOR CRAVEN: Thank you, Doctor, very much. We
4 appreciate your being here.

5 Anyone else who wishes to speak? Yes, sir.

6 DR. BOOKER: Distinguished Senators of the Rules
7 Committee, I'm Jim Booker, a physician and surgeon from Southern
8 California. I practice in Torrance, California.

9 I've been knowing Dr. Williams for many years. I
10 have a unique experience with Dr. Williams that I think is
11 worthy of this Committee's being aware of.

12 I had the pleasure of being appointed to proctor
13 Dr. Williams when she first came to practice, and that's when I
14 first met her. And at the time, I did not know her, which
15 enabled me to be very objective in this process. The reason
16 that I was chosen to do that is because of my experience in
17 medical administration and the fact that objectivity is
18 certainly required in the proctoring process.

19 I was pleasantly surprised to find someone so
20 competent and who was yet so young in the field. I was so
21 pleasantly surprised that it was a pleasure to carry out this
22 process on behalf of the hospital.

23 At the end of the proctoring period, without any
24 reservations whatsoever, I took great pride in recommending that
25 Dr. Williams be allowed to perform the surgical procedures that
26 she had applied for and had done with my observation without any
27 further supervision. I felt very good about that.
28

1 In addition, we became quite close in our
2 professional and personal relationship, and I worked with her in
3 several other cases thereafter, and I found her to be one of the
4 best surgeons I've ever worked with, and I've worked with many
5 over the years throughout the world.
6

7 I find that today, after having moved to another
8 area, she still stands out as being one of the best that I've
9 ever worked with.

10 In addition to that, as a person, she is one of the
11 most caring persons I've ever met. I think that she pays
12 attention to detail.

13 And for all the reasons foregoing that you heard from
14 others and myself and from her, I believe that she would serve
15 this Committee very well in the capacity that she has been
16 appointed. I certainly would like to recommend her
17 unequivocally for any job that the Board or this body would
18 recommend her for.

19 Thank you.

20 SENATOR CRAVEN: Thank you, Doctor, very much.

21 Anyone else who wishes to testify? Yes, sir.

22 MR. CARTER: I'm not a doctor. My name is Gary
23 Carter, and I'm here to speak on behalf of Camille Williams.

24 I'm in favor of her installation on the Medical Board
25 of California.

26 As a fifth generation Californian, civic
27 responsibility has always been a rich part of my family history.
28 We have founded towns, built churches, and most recently donated

1 a thousand acres on the Sacramento River as a state park.

2 I only give this oration so you understand that if I
3 did not believe in Dr. Williams's superior skills and manner, I
4 would not be standing before you.

5 Dr. Williams's skill and aptitude are a personal
6 experience for me, an experience that exceeded my expectation.
7 At all times I felt I was kept informed, had only minor
8 discomfort; the scar is barely visible.

9 My face was skewered by cut bamboo in my own backyard
10 when I fell. As I fell, my cheek was ripped; my lip torn, and
11 my -- the roof of my mouth was severely gouged. This happened
12 on a Saturday evening. My wife was able to get hold of Dr.
13 Williams. We met at her facility. She sutured me on that
14 outside, the inside, all the way through my cheek and lip.

15 None of the stitches puckered or pulled the skin. I
16 was impressed on the workmanship. As soon as I looked at it, my
17 shirt isn't sewed that nice.

18 [Laughter.]

19 MR. CARTER: I've been blessed that I have been able
20 to live a very physically active life, and many of those
21 activities have had their risk, and I've had a number of
22 different experiences with stitches. And in my judgment, I feel
23 that Dr. Williams has a skill, has -- and has a manner that are
24 far superior to any that I've encountered.

25 Thank you.

26 SENATOR CRAVEN: Thank you very much.

27 Yes, sir.
28

1 DR. SCHOENROCK: I'm Larry Schoenrock, and I won't
2 bore you with additional credentials as it relates to my
3 position as a physician, other than to tell you that I direct
4 the Division of Facial and Plastic Surgery at the University of
5 California at San Francisco.

6 I've known Camille for a long period of time, and
7 first met her when she was in a residency. I also knew her when
8 she was applying for a fellowship, and I've been able to follow
9 her career.

10 I've also been on one of the divisional sections of
11 the Medical Board, and so I have a sensitivity to the issues
12 that the Medical Board deals with.

13 In this era of really multiple conflicts, concerns
14 about peer conflicts, concerns about many of the other aspects
15 of cosmetic surgery, concerns with many of the other aspects of
16 credentialing and licensure, I think Camille brings an
17 additional avenue, if you will, and an additional multiple
18 segment of viewpoints that the Medical Board badly needs. I
19 think that in this regard, everybody else has spoken for her
20 abilities; I certainly support that. But I also would like to
21 emphasize the fact that she is going to be another voice that
22 the Medical Board badly needs in licensure, and she is going to
23 be able to deal with some of the conflicts and bring the
24 information to the Medical Board that they need, particularly
25 those as it relates to outpatient surgical units, as it relates
26 to the conflicts in cosmetic and plastic surgery. And in this
27 regard, I support Camille.

1 Thank you.

2 SENATOR CRAVEN: Thank you, Doctor.

3 Anyone else?

4 MS. CAMPBELL: My name is Carol Campbell. I'm
5 residing in Marin County.

6 I am speaking on behalf of Dr. Williams because I
7 first looked into cosmetic surgery because a friend of mine's
8 child was badly damaged, went to a hospital, and had emergency
9 relief. It was not a plastic surgeon, and so, because I have
10 two beautiful little girls, I said I need to find out who's the
11 best.

12 I wanted to know what the education was, what status
13 they had as an M.D., how much training they had had, what kind
14 of specialized training they had had, where they got their
15 training, whether or not it was just cosmetic, were there other
16 surgery abilities; whether or not there was critical care
17 treatment available by the person that I would decide who would,
18 in the event my children were hurt, I would select.

19 Dr. Williams was that person. From that, in learning
20 about her credentials, I am ten years older than my husband, and
21 decided that I would look into it a little further.

22 [Laughter.]

23 MS. CAMPBELL: I had one eyebrow that was sagging a
24 bit, and so on. I got my eyes lifted by Dr. Williams, and in
25 the process of that, I went into her office and I found out all
26 about her because I observed not only the fact that she doesn't
27 pull a string from things, she cuts it with the scissors. She
28

1 has tremendously capable staff in that she talks to you fully.
2 That begins with what happens, when, where, what kind of
3 anesthetic you might use, what you're going to feel like
4 beforehand, what you're going to feel like afterwards, what the
5 alternatives are, how you can -- how you might feel, whether or
6 not you're going to be affected for a length of time.

7
8 When you have been, as I have been, a beauty queen,
9 you are really concerned about -- especially if -- I came from a
10 dysfunctional home. And in coming from dysfunctional home, I
11 learned that my looks got me a lot of places. And I did not
12 have the help of anyone else, and so therefore, I wanted to be
13 sure that -- when you have someone cutting on your face, you
14 want to be sure that they're going to do the right job.

15 And I learned that Dr. Camille Williams is not only
16 meticulous, but she's a perfectionist in every aspect that she
17 gets involved in, and has a great deal of clarity in her
18 decision making and in helping others to make their decisions.

19 So, I highly recommend her. Thank you.

20 SENATOR CRAVEN: Thank you very much.

21 Is there someone else? There's a lady.

22 MS. SANKARY: Hi, my name is Kiyoni Sankary, and my
23 daughter, Miki Sankary.

24 It was one year ago she fell down by our garage, and
25 she got big deep cut in left eyebrow. And we called Dr.
26 Williams, and she said she would see her immediately.

27 So, we took her to Dr. Williams's office, and she was
28 so nice, and Miki calmed down. And she was about a year and a

1 half.

2 And while surgery, she was -- she didn't cry. She
3 went to sleep. So, Dr. Williams did four stitches for her.

4 Then after that, even though when we had to take out
5 stitches, we took her to Dr. Williams's office, but Miki didn't
6 afraid of anything.

7 So this little baby, she doesn't know anything right
8 now, but she will really appreciate that Dr. Williams wonderful
9 job for my daughter.

10 And you couldn't see what scar, four stitches. So,
11 thank you, Dr. Williams.

12 SENATOR CRAVEN: Very good, thank you, dear, very
13 much.

14 MIKI SANKARY: Thank you.

15 SENATOR CRAVEN: Now, that's a real act if I've ever
16 seen one.

17 [Laughter.]

18 SENATOR CRAVEN: It's going to be hard to top that.

19 Is there anyone else who wishes to comment? We have
20 a gentleman coming forward here.

21 DR. WASHINGTON: I'm Robert Washington, your Honor.
22 I worked with Dr. Camille Williams in the capacity of
23 anesthetizing her patients.

24 I found -- I've worked with plastic surgeons in the
25 past, and eye doctors, and general surgeons. And I find Dr.
26 Williams very meticulous in her preparation of patients, in her
27 communication with patients, and her overall discerning ability
28

1 of what is best for the patient.

2 I think Dr. Williams is a very highly moral and
3 Christian person that's concerned about others. And so, I
4 recommend that Dr. Camille Williams be seriously considered and
5 voted yes to be on the Board of Licensure.

6 Thank you very much.

7 SENATOR CRAVEN: Thank you very much, sir.

8 Anyone else who wishes to speak in favor? Yes,
9 ma'am.

10 MS. SMITH: I've been in the glamour field for about
11 30 years, sending many beauty queens and models to have things
12 done to their faces and their figures, et cetera. But I sort of
13 avoided myself.

14 For the last year, I've been searching for somebody
15 that made me feel good about having my face done. After being
16 in her office for five minutes, and I'm from Southern California
17 -- all the doctors I interviewed were down there. After five
18 minutes in her office, I decided that she was the one, because
19 she was very caring, and very articulate, and I'm real happy.

20 I've had my surgery only five weeks, and I think I
21 look pretty darn good for a 70-year old!

22 [Laughter.]

23 SENATOR CRAVEN: I think you do, too.

24 SENATOR PETRIS: Question.

25 SENATOR CRAVEN: Senator Petris has a comment.

26 SENATOR PETRIS: It was a question. She's way back
27 there. Maybe she can just nod yes or no.
28

1 She probably didn't get a good look at me. I don't
2 know if there's any hope for me.

3 [Laughter.]

4 SENATOR CRAVEN: Let me tell you, to just kind of add
5 a touch, if it's any solace to you, you look very good to me,
6 and I'm 71 years old.

7 [Laughter.]

8 MS. GOODMAN: Hello, my name is Earline Goodman. I'm
9 from Memphis, Tennessee.

10 And I needed surgery, and Dr. Camille Williams was
11 recommended, and I flew out, and I was very, very satisfied. I
12 tell you, it's changed my life for better.

13 She's a warm, caring person. She makes you feel --
14 she has the knack of making you feel very comfortable.

15 I'm very nervous now.

16 I am so proud of her, and I'm glad to be here. And
17 you can't -- there's no way you could find a better person, or
18 select a better person for the Medical Board.

19 Thank you.

20 SENATOR CRAVEN: Thank you very much. Did you come
21 all the way from Memphis?

22 MS. GOODMAN: I decided to stay after I got here.

23 [Laughter.]

24 SENATOR CRAVEN: Yes, sir.

25 DR. STANTEN: My name is Dr. Steve Stanten. There's
26 some tough acts to follow here.

27 SENATOR CRAVEN: There are.
28

1 DR. STANTEN: Mine's going to be very short.

2 I've known Camille Williams since our days as
3 residents together at Kaiser Hospital, and residents share a
4 certain kind of bond and a certain work ethic during the long,
5 long hours during residency. And at that time, Camille and I
6 became close friends.

7 Now we're in practice in the same area, both in
8 private practice, and I've worked with her on many occasions and
9 have enjoyed continuing our friendship.

10 And I can strongly recommend Camille both on a
11 personal and medical basis for this position.

12 Thank you.

13 SENATOR CRAVEN: Fine, thank you, Doctor, very much.

14 Is there anyone else that wishes to speak in favor?

15 Anyone in opposition?

16 SENATOR PETRIS: Question.

17 SENATOR CRAVEN: Question, Senator Petris.

18 SENATOR PETRIS: When were you at the U.C. Medical,
19 San Francisco?

20 DR. WILLIAMS: I'm in the class of '80.

21 SENATOR PETRIS: Thank you.

22 SENATOR CRAVEN: Doctor, you have had some ringing
23 endorsements; there's no question about that, and I think we're
24 all very much impressed by your background and resume. It is
25 nice to have people so supportive. You've established yourself
26 quite well, to say the least.

27 SENATOR PETRIS: I'd like to make the motion, but I
28

1 also have one more question.

2 SENATOR CRAVEN: Certainly.

3 SENATOR PETRIS: This overflow of good will toward
4 you and your caring raises one question.

5 Can you be tough enough on the Board to go after some
6 of your colleagues if it's necessary?

7 DR. WILLIAMS: I think it's an honor to serve the
8 people of California, and that's the trust that I wish to
9 maintain.

10 SENATOR PETRIS: But can you do it?

11 DR. WILLIAMS: Yes.

12 SENATOR PETRIS: I thought somebody that sweet would
13 have difficulty.

14 [Laughter.]

15 SENATOR PETRIS: I move confirmation, Mr. Chairman.

16 SENATOR CRAVEN: Is that the velvet glove on the iron
17 fist?

18 Very good, Senator Petris has moved. Call the roll,
19 please.

20 SECRETARY WEBB: Senator Beverly.

21 SENATOR BEVERLY: Aye.

22 SECRETARY WEBB: Beverly Aye.

23 Senator Mello.

24 SENATOR MELLO: Aye.

25 SECRETARY WEBB: Mello Aye.

26 Senator Petris.

27 SENATOR PETRIS: Aye.
28

1 SECRETARY WEBB: Petris Aye.

2 Senator Craven.

3 SENATOR CRAVEN: Aye.

4 SECRETARY WEBB: Craven Aye.

5 Senator Roberti.

6 Four to zero.

7 SENATOR CRAVEN: Measure's out four-zero to the
8 Floor.

9 Thank you, Doctor, very much. Congratulations.

10 [Thereupon the final vote for
11 confirmation was 5-0, as Senator
12 Roberti's aye vote was added
13 pursuant to Senate Rule 28.7]

14 [Thereupon the Senate Rules
15 Committee acted upon legislative
16 agenda items.]

17 SENATOR CRAVEN: May we now go back to the
18 appointees. Next is William Duncan II, Warden, California Mens
19 Colony.

20 Good afternoon, Mr. Duncan. Would you tell us,
21 please, a little bit about your background, why you feel that
22 you're qualified for this position.

23 MR. DUNCAN: Mr. Chairman and distinguished Members,
24 my name is Bill Duncan, and I was appointed as the Warden of the
25 California Mens Colony on December 30th of last year.

26 I'm a career Department of Corrections employee with
27 approximately 22 years of state service. I began my career as a
28

1 correctional officer at Deuel Vocational Institution in 1970,
2 and subsequently promoted through all the supervisory and
3 managerial ranks within the Department. I have been employed at
4 five separate and distinct prisons, encompassing virtually every
5 level of classification of inmate, both male and female.
6

7 I have over 16 years of supervisory experience, and
8 approximately 12 years of managerial experience. I've served in
9 a multitude of staff assignments at the Department level,
10 including membership on a task force to develop curriculum for
11 the Correctional Training Academy, Disturbance Control
12 Coordinator, as instructor for management development, and last
13 year, member of the management bargaining team in negotiations
14 with the California Correctional Peace Officers Association.

15 I fully support the Department's mission to protect
16 public safety, offer viable programs to assist inmates in their
17 return to society as more productive citizens, educate the
18 public pertaining to the role of correctional programming, and
19 managing the system in a fiscally responsible manner.

20 I believe, based upon my tenure at the Department and
21 my multifaceted level of experience that I can best serve the
22 state and public by utilizing my knowledge, skills, and ability
23 to manage and direct a difficult, complex prison operation.

24 SENATOR CRAVEN: Very well, thank you.

25 Any Members of the Committee wish to comment at this
26 time?

27 Is there anyone in the audience who wishes to speak
28 in support of the appointee?

1 You must have told them all to stay home.

2 Anyone who wishes to speak in objection? There
3 appears to be none.

4 I should tell you also that the Association of Black
5 Correctional Officers, Leon Ralph's outfit, have been supportive
6 of all of these Warden candidates. I want to make that clear
7 for the record. Leon couldn't be here -- oh, there he is; I'm
8 sorry.

9 Do you want to come up, Leon, and say something?

10 MR. RALPH: Mr. Chairman, Members, thank you so much
11 for your courtesy.

12 I'm here representing the Association of Black
13 Correctional Workers. We're here in support of Mr. Duncan and
14 all of the appointees for Warden today, as was the case in the
15 previous two weeks.

16 SENATOR CRAVEN: Very good.

17 MR. RALPH: Thank you for your courtesy.

18 SENATOR CRAVEN: Thank you, sir.

19 SENATOR BEVERLY: Move we recommend confirmation.

20 SENATOR CRAVEN: Senator Beverly moves. Call the
21 roll.

22 SECRETARY WEBB: Senator Beverly.

23 SENATOR BEVERLY: Aye.

24 SECRETARY WEBB: Beverly Aye.

25 Senator Mello.

26 SENATOR MELLO: Aye.

27 SECRETARY WEBB: Mello Aye.
28

1 Senator Petris.

2 SENATOR PETRIS: Aye.

3 SECRETARY WEBB: Petris Aye.

4 Senator Craven.

5 SENATOR CRAVEN: Aye.

6 SECRETARY WEBB: Craven Aye.

7 Senator Roberti.

8 Four to zero.

9 SENATOR CRAVEN: Very good, congratulations.

10 MR. DUNCAN: Thank you very much.

11 [Thereupon the final vote for
12 confirmation was 5-0, as Senator
13 Roberti's aye vote was added
14 pursuant to Senate Rule 28.7]

15 SENATOR CRAVEN: Next is Ivalee C.H. Henry, Warden,
16 Mule Creek State Prison.

17 MS. HENRY: Hello.

18 SENATOR CRAVEN: Good afternoon. Tell us why you
19 feel you're qualified.

20 MS. HENRY: Mr. Chairman and Senators, I, like Mr.
21 Duncan, have been a career employee of the Department of
22 Corrections. My experience began in San Quentin in 1961, so,
23 unlike his basic 17 years, I have 30 years of experience with
24 the Department.

25 I have had the privilege of working throughout the
26 State of California. I've worked at all different levels of
27 supervisory classifications and management classifications.
28

1 I've also had the opportunity of working in all of the
2 operational divisions within the Department, which includes
3 prisons. I've worked for three prisons. I've also worked with
4 the Parole Operations; I have worked with Prison Industries as a
5 manager; I've also worked in the administrative services as a
6 branch chief, and then in headquarters operation in the
7 Department of Corrections, having statewide program
8 responsibility.

9 I have a professional philosophy in terms of
10 accepting the responsibility for a Warden, which is that a
11 Warden is not only responsible for the safety of the public, but
12 is also responsible for creating a working environment that is
13 safe for our employees, that is also -- that should be also safe
14 for our inmates to do their time. And in creating that kind of
15 environment, it takes a great deal of leadership, strong
16 leadership.

17 It is my belief that in order to create that safety
18 factor that inmates need to be programmed. I am a very strong
19 supporter of our education program, which is complete in terms
20 of academic and vocational. I am also in very strong support of
21 the literacy program. We also have a number of self-help
22 programs that I think is important for inmates to enhance their
23 abilities, not only so that they do good time, but because that
24 will also enhance their success in their transition back to our
25 communities. And that is one thing that I think we all, and as
26 a Warden I accept some responsibility for, know that our inmates
27 will be returning to our communities.
28

1 As a Warden, I also believe that it is important to
2 be a good neighbor. And prison should be an asset to a
3 community, and it is my commitment and my intent, and since I've
4 been at Mule Creek Prison, to do that.

5 The prison that I'm in charge of is a high medium
6 level prison. They have over 3600 inmates and 931 staff. It is
7 a very responsible job. It is one that I take very seriously.

8 And in my decision to consider being a Warden for the
9 Department of Corrections and for the State of California, it
10 took a great deal of deliberation on my part.

11 So, I accept this responsibility with a great deal of
12 commitment. I also feel very strongly as a public administrator
13 in providing the people of California the highest level of
14 integrity and loyalty.

15 And I believe that with my background and experience
16 with the Department of Corrections, my personal commitment, that
17 I'd be a very good Warden.

18 SENATOR CRAVEN: Thank you.

19 Do any Members of the Committee have any comments at
20 this time? Question, Senator Petris.

21 SENATOR PETRIS: Where is Mule Creek?

22 MS. HENRY: I knew somebody'd ask me. It's in Ione
23 in Amador County, Senator Johnston's area.

24 SENATOR PETRIS: Do we have two Iones in the state?

25 MS. HENRY: Not that I know of.

26 SENATOR CRAVEN: Only Bob Monagan's wife, whose name
27 is Ione.
28

1 Anyone who wishes to speak in support of this
2 candidacy, appointment? Yes, ma'am; please come forward and
3 state your name.

4 MS. VASQUEZ: Good afternoon, Mr. Chair and Members.
5 My name is Hope Vasquez, and I'm here today on behalf of the
6 National Mexican-American Correctional Association.

7 I just want to voice our support with Ivalee. We
8 have worked with her over the years regarding Hispanic issues,
9 and we hope to continue the working relationship, and we're here
10 today again of support of her appointment.

11 Thank you.

12 SENATOR CRAVEN: Thank you very much, Ms. Vasquez.
13 Anyone else who wishes to comment?

14 MR. RALPH: Mr. Chairman, I want to make sure the
15 record reflects that the Association of Black Correctional
16 Workers do support all the Wardens today.

17 SENATOR CRAVEN: Thank you very much, Leon.

18 MS. MCKINNEY: My name is Donna McKinney, and I'm the
19 President of Women in Criminal Justice.

20 We're also in support of Ms. Henry's nomination.

21 SENATOR CRAVEN: Thank you very much. We appreciate
22 it.

23 Anyone else?

24 SENATOR BEVERLY: Move we recommend confirmation.

25 SENATOR CRAVEN: Senator Beverly moves.

26 Let me ask you just one question. Where were you
27 born?
28

1 MS. HENRY: Hilo, Hawaii.

2 SENATOR CRAVEN: Oh, my old home.

3 MS. HENRY: Really?

4 SENATOR CRAVEN: Yes. Probably -- well, you were
5 just a little girl when I was there.

6 [Laughter.]

7
8 SENATOR CRAVEN: I was there right after Kamehameha
9 left.

10 [Laughter.]

11 SENATOR CRAVEN: You were about four or five years
12 old. How time flies.

13 MS. HENRY: Yes.

14 SENATOR CRAVEN: Well, I saw here that you a member
15 of the Asian-Pacific Islanders State Employees Association, and
16 I just wanted to you from whence you came so you qualified for
17 that.

18 MS. HENRY: Yes, I do.

19 SENATOR CRAVEN: It's nice to see a wahine again.

20 MS. HENRY: Thank you.

21 SENATOR CRAVEN: Call the roll, please.

22 SECRETARY WEBB: Senator Beverly.

23 SENATOR BEVERLY: Aye.

24 SECRETARY WEBB: Beverly Aye.

25 Senator Mello.

26 SENATOR MELLO: Aye.

27 SECRETARY WEBB: Mello Aye.

28 Senator Petris.

1 SENATOR PETRIS: Aye.

2 SECRETARY WEBB: Petris Aye.

3 Senator Craven.

4 SENATOR CRAVEN: Aye.

5 SECRETARY WEBB: Craven Aye.

6 Senator Roberti.

7 Four to zero.

8 SENATOR CRAVEN: Four-zero; congratulations.

9 MS. HENRY: Thank you very much.

10 [Thereupon the final vote for
11 confirmation was 5-0, as Senator
12 Roberti's aye vote was added
13 pursuant to Senate Rule 28.7]

14 SENATOR CRAVEN: Next is George E. Ingle, Warden,
15 California Medical Facility.

16 Mr. Ingle, if you will, please, tell us why you're
17 qualified for this position.

18 MR. INGLE: I'd like to thank the Members of the
19 Board for the opportunity to appear before the Committee.

20 My background includes 28 years in the field of
21 Corrections, starting in 1964 as a correctional officer. I
22 promoted through the ranks, serving in 12 different civil
23 service classifications. I have served at seven different
24 correctional institutions and with the Parole and Community
25 Services Division.

26 My experience and assignments include both a wide
27 variety of field operations and staff assignments in Corrections
28

1 headquarters. While in CDC's Central Office, I served in the
2 capacity of Chief of Classification and as Assistant Deputy
3 Director, Institutions Division, with responsibility for
4 statewide policy development and policy compliance.
5

6 During my prior assignment as Warden of Mule Creek
7 State Prison, some of my major accomplishments included:
8 activation of the new prison; successfully overcrowding the
9 prison to 225 percent of capacity; development and
10 implementation of new vocational educational and prison
11 industries programs.

12 This varied background with a wide range of
13 correctional experience has prepared me for the position of
14 Warden at the California Medical Facility.

15 Due to the notoriety at CMF and some recent concerns,
16 I would like to share with the Committee a brief overview of the
17 multi-program mission of the California Medical Facility, and
18 some of the major issues we, as an organization, are working on.

19 The institution offers a comprehensive program of
20 psychiatric and medical care. It contains an 150-bed acute
21 inpatient psychiatric hospital, a 943-bed outpatient psychiatric
22 program, a 65-bed licensed medical hospital, and a 482-bed HIV
23 center.

24 Although CMF is a Level III facility, medium
25 security, inmates within any custody level may be housed there
26 consistent with their treatment needs. This institution has
27 been designated to house and treat the violent and management
28 psychiatric inmates, the high custody, and complex medical

1 cases, and the more debilitated AIDS inmates.

2 As Warden, I administer a difficult balancing act to
3 ensure that the very best medical and psychiatric care is
4 provided to the inmate population, while providing a safe and
5 secure environment for both the staff and inmates to work and
6 live.

7 Competing requirements often require innovative
8 correctional and medical decisions, and sometimes involve
9 decisions which are not popular or fully understood by medical
10 or custody staff and/or the inmates. In making decisions, I
11 consult all disciplines and try to reach consensus where
12 possible.

13 The institution has been under close scrutiny for
14 several years due to two ongoing lawsuits. The first was filed
15 in 1985 by the federal government under the Civil Rights of
16 Institutionalized Persons Act, commonly referred to as CRIPA,
17 for not providing timely medical, dental, and psychiatric care.
18 As a result of that action, the Department of Corrections and
19 CMF entered into a Consent Decree. Based on substantial
20 compliance during the subsequent reviews by the Department's
21 Inspector General's Office and the CRIPA consultants, the
22 federal government dismissed the medical and dental provisions
23 of the Consent Decree in July of this year.

24 The second lawsuit, filed in 1988, CRIPA vs.
25 Deukmejian, is a class action suit alleging inadequate medical
26 and psychiatric care, lack of provisions for disabled inmates,
27 restrictive programming for AIDS inmates, and general conditions
28

1 of confinement. The Department and the institution also entered
2 into a Consent Decree in this case, and a Special Master was
3 appointed to provide oversight of this Decree.
4

5 In most areas there has been substantial compliance
6 with the Consent Decree, with the exception of mental health.

7 In reviewing the mission and programs at CMF,
8 including the Consent Decrees, I have concentrated the
9 institutional resources on the mental health programs, the HIV
10 programs, and the recruitment of clinical leadership. In April
11 of 1992, recognizing the low compliance level with the
12 outpatient psychiatric program, the Department assisted in
13 developing an implementation team comprised of professionals
14 throughout CDC. Their task was to review the program, identify
15 the needed resources, and assist CMF staff in implementing the
16 program.

17 Monthly meetings have been established with the
18 plaintiffs, the court consultants, the United States Department
19 of Justice experts, the implementation team, and CMF staff. The
20 compliance ratings have steadily improved. As a result of some
21 reorganization of the program, improvement of the policies and
22 procedures, and staff training, the program is now moving toward
23 compliance.

24 In terms of the HIV program, the Department in 1991
25 approved a budget change proposal to transfer -- to establish an
26 HIV center for 482 inmates. The goal of the program is to
27 establish comprehensive medical, nursing, psychological care,
28 and expanded programming within a custody setting for identified

1 HIV positive inmates. The new location provides for more
2 programming and recreation activities, and has been centralized
3 for improved delivery of medical services.

4 When the budget is approved, the budget change
5 proposal will provide for increased clinical, educational and
6 custodial staffing, which will further enhance the program.

7 A proposal has been submitted to restructure the
8 outpatient psychiatric program to provide for increased
9 supervision and management. Currently, civil service testing
10 has been scheduled for the Medical Director and Chief
11 Psychiatrist. In conjunction with CDC headquarters, extensive
12 nationwide recruiting has been conducted to attract the very
13 best candidates.

14 Finally, I would like to address four areas -- four
15 other areas of my personal involvement to provide improved
16 services to the inmate population.

17 I have assisted the Director in streamlining the
18 Compassionate Release program for terminally ill inmates. At
19 CMF, when a clinician identifies an inmate that medically
20 qualifies for consideration, the case is immediately reviewed by
21 me for policy compliance and then submitted to the Director for
22 a decision.

23 Early on, following my appointment as Warden at CMF,
24 I became aware of the significant recruitment and retention
25 problems of medical and psychiatric staff. I addressed this
26 issue with the Director, and through the collective bargaining
27 process, an enhanced recruitment and retention stipend was
28

1 agreed to pending budget approval.

2
3 As a result of the establishment of the HIV center, I
4 requested through the Director to move the capital outlay budget
5 change proposal for enhancing the HIV center, which included
6 electrical upgrade, pharmacy, and the hospice unit from the
7 1993-4 to current year.

8 And since the cells that the HIV inmates were
9 relocated to in July of this year did not have electrical
10 outlets, I developed a short-term fix for the installation of
11 electrical outlets. That project should be completed within six
12 to eight weeks.

13 The HIV center is a new program in concept awaiting
14 budget approval; however, daily the staff and inmates are
15 working to improve the operation and provide for the best
16 medical and psychiatric care available.

17 Thank you.

18 SENATOR CRAVEN: Very good, thank you very much, sir.
19 That's quite extensive and very interesting as well.

20 Any Members of the Committee wish to make comment at
21 this time?

22 Is there anyone in the audience who wishes to
23 testify on behalf of the appointee?

24 MR. RALPH: Mr. Chairman, we would like to stipulate
25 that the Association of Black Correctional Workers support this
26 nomination, and ask that you confirm.

27 SENATOR CRAVEN: Very well.

28 Anyone else who wishes to speak in favor?

1 MS. MCKINNEY: Donna McKinney, President, Women in
2 Criminal Justice.

3 I believe we have a letter on file in support of
4 Mr. Ingle.

5 SENATOR CRAVEN: Yes.

6 Where are you headquartered?

7 MS. MCKINNEY: I work at the California State Prison
8 at Solano.

9 SENATOR CRAVEN: I see, thank you very much.

10 Anyone else?

11 I had some others listed here, Jim Lewis.

12 How about in opposition? Do we have anyone in
13 opposition? We have a listing of, well, an individual. You
14 certainly would qualify under that guise.

15 Yes, sir. State your name, please.

16 MR. RIOS: Thank you, Mr. Chairman, Members.

17 Robert Rios with the LIFE AIDS Lobby.

18 We have submitted a record in opposition to the
19 confirmation of Mr. Ingle based on some information that has
20 been presented to us about administrative policies dealing with
21 inmates with HIV, and there will be some subsequent testimony
22 about those issues.

23 I want to emphasize that the LIFE AIDS Lobby has a
24 firm commitment to working with the administration and the
25 communities involved to come up with a satisfactory resolution
26 to those issues that will be raised later.

27 Thank you.
28

1 SENATOR CRAVEN: You're entirely welcome.

2 Is there someone else who wishes to -- yes, sir.

3 Come forward and state your name, please.

4 MR. LEWIS: Yes, good afternoon.

5 My name is Jim Lewis, and I represent several
6 California chapters of ACT UP and CHAIN, C-H-A-I-N, which is the
7 California HIV Activists and Inmate Network.

8 It is a bit embarrassing for me to address a
9 Committee comprised of five of the most powerful men in the
10 State of California on behalf of some of the least powerful men
11 in the State of California, namely prisoners with AIDS in this
12 kinder, gentler, and ever more medieval nation.

13 I'm a bit nervous, so excuse me, please.

14 SENATOR CRAVEN: Just settle down, Jim. There's no
15 reason to feel nervous. We're happy to have you.

16 MR. LEWIS: Thank you, Senator Craven.

17 The reality of the epidemic in prisons is something
18 extremely serious. It is very likely that as we speak right
19 now, someone is dying at CMF of AIDS. Two or three people, on
20 the average, die there every week.

21 By 1995, there may be a thousand men there with
22 symptomatic HIV disease. This would make it the largest
23 hospital in California, and the largest HIV population in the
24 world. One person at that time would probably die every day
25 after six months of disability, at least. And no matter what
26 this Committee does today, that is going to be true. With the
27 number of men with the HIV in the intravenous drug-user
28

1 population and the underclass, this is going to happen.

2 And we have not seen anything like a plan that is
3 going to address this coming crisis, which is already a crisis.

4 I ask you to think for a moment -- it isn't as
5 enjoyable as the last testimony was -- but to think for a moment
6 what it might be like to die of AIDS at CMF. Many AIDS patients
7 go blind before they die. Before they die, they are not able to
8 feed themselves; they cannot walk to the commode; they cannot
9 even raise a glass of water for the thirst of the dying. This
10 is something we will all go through, and these men are presently
11 going through it alone.

12 However, this crisis has brought out the best in many
13 people. I had the privilege of meeting Dr. Maisonet some months
14 ago, who some call the Mother Theresa of Northern California,
15 and he, of course, was asked to present at the eighth
16 International AIDS Congress in Amsterdam last month. This man
17 was so tired when I met him, that he sat down in his chair and
18 fell asleep while talking at 4:30 in the afternoon. It was
19 probably the first time he'd sat down all day. The
20 extraordinary thing was, even while fast asleep, he was able to
21 continue talking.

22 [Laughter.]

23 MR. LEWIS: I was also privileged to see Pastoral
24 Care Services, which is an inmate group organized by the inmates
25 and Father Leslie, whose pledge was that no inmate would have to
26 die alone. It seems like a modest enough goal, except at CMF.
27 Thirty prisoners, half of whom were HIV-positive, held the hands
28

1 of the dying, gave them water and food, in this most fearful
2 time that will come to us all. They got no work credit. They
3 missed their sleep in order to do this, which compromised their
4 own health.

5 So, this was what I saw.

6 Now, I understand that Mr. Ingle comes very highly
7 recommended, that he is a dedicated public servant. But since
8 he has arrived at CMF, either by design or neglect, so many of
9 these things that were created there have fallen into
10 disrepair.

11 In the many letters that you have in regard to this
12 matter, there is one from Michael Haggerty, who was the
13 organizer of the Pastoral Care Service, which was that peer
14 group thing that I just described. He describes what happened,
15 by his objectives; the observation of he, who was an inmate
16 there under the old Warden and the new Warden when Mr. Ingle
17 came into office. Quote:

18 "Warden Ingle ... appointed an
19 openly hostile Associate Warden,
20 Carolyn Graham and ... allowed her
21 to operate without adequate
22 supervision. As a result the three
23 pre-eminent physicians left CMF and
24 the CDC rather than be forced to
25 compromise their medical ethics.
26 The support staffs were severely
27 impacted by this departure, and
28

1 patient care and services began a
2 constant, and increasingly rapid
3 decline in quality and delivery
4 time. PCS was almost entirely
5 eliminated."

6 That is the peer counseling group.

7 "The only reason it was not, is that
8 it enjoys a substantial body of
9 community-based support, which
10 loudly voiced concerns over the
11 situation."

12 Many people on this Committee have said, "What's all
13 the trouble about? We thought this was a routine appointment."

14 This is what the trouble is all about. In the few
15 instances when a few people rose up to take care of this crisis,
16 which was growing into unimaginable proportions, they were
17 knocked down. Whose fault it is, is hard to say, but it
18 happened under this gentleman's watch.

19 So, I can only go on to say that Drs. Maisonet, Clark
20 and Diamond were replaced by doctors who admittedly, by their
21 own admission, know very little about HIV. One of them is a
22 pediatric neurologist.

23 Dr. Jessica Clark is testifying under subpoena this
24 afternoon in federal court in regard to the issue of trying to
25 put two men into a five-by-nine foot pocket cell. That's five
26 feet by nine feet, in which two men with AIDS can share their 45
27 square feet, and every opportunistic infection that they might
28

1 have. This is absolutely unacceptable.

2 There are other complaints in our written testimony
3 and that of the many organizations that have worked together to
4 oppose this nomination.

5 Is it fair to blame all of this on Mr. Ingle?
6 Probably not, but the buck has to stop somewhere. Perhaps it
7 was a poor appointment by the CDC, but clearly, anyone who's
8 going to run what is going to become the largest AIDS hospital
9 in the world should have some knowledge of epidemiology,
10 psychiatric issues, HIV management, and AIDS, and should not
11 only be, as Mr. Ingle is, an expert in custody and security
12 matters.

13 ACT UP has several demands. You will hear more
14 demands from our next speaker, but some of our demands we
15 consider to be absolutely essential.

16 And first of all, we would like to suggest that the
17 Committee not be swayed by a popular phrase these days,
18 "confirmation conversion." Like we understand a lot of things
19 have changed at CMF this week, and that's all very nice, and
20 we're extremely grateful. We realize that these reverses could
21 be just as quickly reversed. So we are asking this Committee
22 not to confirm Warden Ingle.

23 We're also asking, as our second request, the
24 appointment of a new CMO, and a staff who have expertise in
25 AIDS. Dr. Camasura, everyone agrees, seems to be a disaster.

26 We also asked for reassignment of Associate Warden
27 Graham to a position from which she can no longer inhibit and
28

1 block humane care for HIV-positive prisoners.

2 Our third request is for establishment of a round
3 table with oversight by this Committee. That will be gone into
4 in great detail by our next speaker.

5 We ask for full implementation of the Gates and CRIPA
6 decrees within 60 days. You did notice that Mr. Ingle used a
7 great deal of future tenses in his description of things that he
8 plans to do. We would like those overseen by this Rules
9 Committee, and we'd like a timeline.

10 Finally, we would like oversight of this Committee by
11 every aspect of these controversial issues until the State of
12 California has formalized and implemented a satisfactory AIDS
13 policy.

14 I attended a hearing with Director Gomez on March
15 11th at which he publicly admitted that there is no California
16 HIV/AIDS policy in regard to prisons. There is no overall
17 master plan yet. This is not acceptable. With what is coming
18 down the road, a thousand men at CMF with AIDS, one dying
19 everyday, this is not acceptable.

20 Don't let the CDC tell you that these things aren't
21 possible because they have no money. That's probably what
22 they'll say. These things would not cost anything. And, the
23 CDC managed to find \$9.8 million in this year's budget for
24 lethal fences to build around every California prison. These
25 are hideous, inhuman parallels to the bug lights that kill
26 insects. If the can find \$9.8 million for those, they can find
27 some money to treat prisoners with AIDS.
28

1 So, don't accept that there isn't enough money,
2 please. To say there isn't enough human feeling would probably
3 be closer to the mark.

4 Thank you very much for your attention. ACT UP,
5 fight back, fight AIDS.

6 SENATOR CRAVEN: Thank you very much, sir.

7 Let me just digress and take a moment here.

8 [Brief discussion off the record.]

9 SENATOR CRAVEN: Ladies and gentlemen, and Mr. Ingle,
10 I'd like to take a break now. I'll tell you exactly why.

11 Two of our Members are presenting bills in Ways and
12 Means, which is over in the other House, in the Assembly. And
13 our President Pro Tem, David Roberti, is involved with other
14 legislative business. I hadn't expected him back at all.

15 I would like to have enough Members here, hearing
16 this testimony that you care to deliver to us, because it's only
17 fair to you that you have a group or a body up here that can
18 take an action. Senator Beverly and I, we can't do that because
19 we're not a quorum.

20 So, let's break for 15 minutes, and we will send the
21 Sergeants out to try to round up our Senators.

22 [Thereupon a brief recess was taken.]

23 SENATOR CRAVEN: Let's reconvene.

24 We had some other persons who wished to give
25 testimony. They're coming back in.

26 If you would come forward, please. We'll be happy to
27 hear from you. You may stand or be seated, whatever you choose.
28

1 MS. WOOD: Good afternoon. My name is Anne Wood.

2 I'm a client services coordinator for the Sierra-Foothills AIDS
3 Foundation. We provide services to persons with HIV disease in
4 Nevada County, Placer County, Amador County, and Calaveras
5 County, and sometimes our clients wind up as clients of Mr.
6 Ingle.

7 I'm here to speak to you about the concerns of many
8 persons and organizations regarding the suitability of George
9 Ingle for confirmation as permanent Warden at the California
10 Medical Facility at Vacaville.

11 Among other groups which have been involved in
12 expressing their grave concerns are: Physicians for Responsible
13 Government; the California Medical Association; the California
14 Psychiatric Association; the San Francisco AIDS Foundation;
15 California Legal Assistance for Prisoners; the Shanti
16 Foundation; Correctional HIV Consortium; AIDS Project San Diego;
17 the Inland Empire AIDS-CAP; the Minority AIDS Project; the
18 Friends Committee on Legislation; the California HIV
19 Activist-Inmate Network known as CHAIN; the Episcopal Diocese of
20 Northern California; various chapters of ACT UP from across the
21 state; and many, many others, some of whom have spoken to you
22 today.

23 In my written remarks, you may note that two Catholic
24 Dioceses are listed, but at this time they've chosen to remain
25 neutral.

26 Each of these organizations and speakers bring its
27 own unique concerns and approaches to the issues at hand:
28

1 opposition to the confirmation of George Ingle as Warden at CMF
2 Vacaville. But each also shares the convictions that citizens
3 must take action to ensure that the Department of Corrections
4 and the Legislature take the high moral ground in this
5 instance.

6
7 Each also shares the feeling that, although inmates
8 are incarcerated, prisoners with medical, psychiatric, and HIV
9 conditions have the right to adequate care and treatment which
10 should be measured against the community standard. Each has a
11 right to complete his or her incarceration and be released.
12 They have a right to live as long as possible.

13 In the time since Mr. Ingle has begun his service at
14 CMF, medical psychiatric, and particularly HIV operations have
15 shown a marked decrease in appropriate activity and quality. We
16 strongly urge the Senate Rules Committee not to confirm Mr.
17 Ingle as the permanent at Warden.

18 In the event that confirmation cannot be avoided in
19 favor of a more appropriate candidate, I would request on behalf
20 of my associates in this matter that Warden Ingle be confirmed
21 only if subject to the following terms and conditions.

22 One, immediate appointment of a physician trained and
23 experienced in HIV disease and its treatment in a correctional
24 setting to act as CMO for the HIV program.

25 Two, immediate appointment of a new Associate Warden
26 and a new correctional captain program administrator. It is our
27 opinion that there are no adequately qualified personnel for
28 these positions currently with the California Department of

1 Corrections. Appointment of correctional lieutenants,
2 sergeants, and correctional officers who have freely indicated a
3 desire to work in close association with HIV positive and
4 terminally ill inmates, and who have successfully completed a
5 sensitization program relating to the medical and psychological
6 issues surrounding HIV disease.

7
8 Three, increased utilization of the Men's Advisory
9 Council.

10 Four, increased availability for all CMF inmates to
11 psychiatric services for either crisis intervention or ongoing
12 treatment, regardless of the inmate's category or classification
13 status.

14 Five, full compliance, within 90 days, of all issues
15 in the Gates Consent Decree and CRIPA.

16 Six, immediate curtailment of custodial and medical
17 technical personnel's short-stopping of or otherwise tampering
18 with legitimate physician's orders.

19 Seven, establishment of an HIV round table working
20 group which would meet once per month.

21 Eight, within 90 days, establish the 25-bed hospice,
22 the 15-bed step-down unit, and have same fully operational, as
23 called for in the previously approved budget change proposals.

24 Nine, immediate re-establishment of the Hospice
25 Service Program and its five staff positions.

26 Ten, restoration of the Pastoral Care Services
27 Program to original scope and operation procedures as outlined
28 in the original program literature, to pre-Ingle/Graham

1 functioning, and a cessation of harassment of PCS staff persons
2 by medical technical assistants, custody, and middle management.

3
4 Eleven, a cessation of the harassment and
5 stress-creating situations and actions of medical technical
6 assistants and custodial personnel in HIV living and program
7 areas.

8 Twelve, the utilization of existing employee
9 positions to ensure that all Category O medical prisoners to
10 include HIV positive prisoners, J and K, psychiatric inmates,
11 have a release plan in place no later than 45 days prior to
12 their release.

13 Thirteen, submission by the working group of a
14 regular quarterly report to the membership of the Senate Rules
15 Committee and the Director of the CDC for three years.

16 Fourteen, no double celling or diet curtailment for
17 HIV positive prisoners. Adequate access to rapid medical care.
18 Electricity within cells. Development and implementation of a
19 plan to install climate control in all medical, psychiatric, and
20 HIV positive inmate living and program areas before the next
21 heat wave season.

22 Fifteen, work with nonprofit community-based programs
23 to find incarceration alternatives for person who are within one
24 year of their death.

25 This list of conditions does not necessarily equally
26 represent the particular concerns and priorities of each of our
27 constituent organizations. It will, however, allow the Senate
28 Rules Committee to, if absolutely necessary, confirm Mr. Ingle,

1 and in so doing so with these conditions, demonstrate to the
2 people of California that, while the Members of the Rules
3 Committee recognize the need for punishment of wrong-doing, they
4 also understand the need for a continuing presence to ensure
5 that there is humane and appropriate treatment.

6 Confirmation, if necessary, can only be seen as
7 acceptable if it is accompanied by these conditions and the
8 continuing oversight of the Rules Committee.

9 Thank you.

10 SENATOR CRAVEN: Let me ask you a question or two, if
11 I may.

12 Tell me again the name of your organization.

13 MS. WOOD: Sierra-Foothills AIDS Foundation.

14 SENATOR CRAVEN: That's a volunteer group, I presume.

15 MS. WOOD: We do have volunteers, yes, sir.

16 SENATOR CRAVEN: Well, when you say it that way, it
17 would indicate to me that you are a professional.

18 MS. WOOD: I am a volunteer.

19 SENATOR CRAVEN: Okay, then, you're a volunteer. You
20 misled me.

21 Is there a professional or executive officer who runs
22 that organization?

23 MS. WOOD: We're run by a Board of Directors, a
24 working Board of Directors.

25 SENATOR CRAVEN: But they're all volunteers, I
26 presume?

27 MS. WOOD: Those are all volunteers. We have hired
28

1 case management paid staff that are -- our case managers are
2 paid, and our Administrative Assistant is paid.

3
4 SENATOR CRAVEN: From money you raise in the
5 community?

6 MS. WOOD: Yes, sir.

7 SENATOR CRAVEN: Did you have any contact with the
8 facility prior to the AIDS epidemic?

9 MS. WOOD: No, sir.

10 SENATOR CRAVEN: So basically, it is really solely
11 around that milieu; is that correct?

12 MS. WOOD: Yes, that's correct.

13 SENATOR CRAVEN: Very well, now I understand a little
14 better.

15 You've obviously done a lot of backgrounding and
16 research. I listened very intently to what you said and the 15
17 items, I think, you made mention of.

18 It really is a program for, in my judgment, a new
19 facility because it's so extensive. Many of us, I think, at
20 times run into a situation where we see and hear things like
21 that, and we think we'd like it to begin over, but that creates
22 a problem, and invariably, that bugaboo of having no money also
23 creates another problem.

24 I just -- you know, you wound it up on sort of a
25 happy note by saying, you know, you would be in support of this
26 gentleman if these things were taken care of.

27 I think that you are old enough and facile enough
28 mentally to recognize that none of those things are going to

1 happen just overnight, and all of them, being a contingent as it
2 relates to him, would be sort of difficult to field, too.

3 MS. WOOD: I do understand that, sir.

4 I think what we are most concerned with is that we
5 saw things moving along rather well before he came, and we have
6 seen a backslide since.

7 SENATOR CRAVEN: So the transition, you didn't
8 particularly think, was moving in the right or more favorable
9 direction.

10 MS. WOOD: Correct.

11 SENATOR CRAVEN: Maybe we'll get to that. Maybe some
12 of my colleagues have some thoughts here.

13 Senator Mello.

14 SENATOR MELLO: My question will be director to
15 Mr. Ingle, because I think whether you belong to one group,
16 volunteer or paid, what my concern is, what is your formal
17 policy that relates to the treatment of HIV positive inmates or
18 persons with confirmed AIDS? Is it a written policy?

19 MR. INGLE: That's correct.

20 Contrary to the previous speaker, the Department has
21 had a policy for a number of years on the housing and care of
22 HIV inmates. And of course, we comply with the departmental
23 policy.

24 CMF has --

25 SENATOR MELLO: Departmental, is this statewide as
26 administered by the State Department of Corrections?

27 MR. INGLE: That's correct.
28

1 SENATOR MELLO: It's in writing?

2 MR. INGLE: Yes, it is.

3 SENATOR MELLO: I guess the question here is whether
4 or not you're administering this program differently in your
5 facility than the written regulations are prescribed by
6 Mr. Gomez and the State Department.

7 Do you think you're following his --

8 MR. INGLE: We're in compliance with the departmental
9 policy.

10 SENATOR MELLO: What is your policy? She talked
11 about double celling, electricity in each cell, and about other
12 types of things.

13 What is your policy? Once a person has become HIV
14 positive, how are they treated differently from other inmates?

15 MR. INGLE: At CMF, our housing of it is a little
16 different than some institutions. We have both a closed and
17 open unit.

18 A closed unit is a unit in which inmates who have had
19 recent behavior that puts them at risk of transmitting the
20 disease to other inmates are housed.

21 And then we have the open unit, which is a unit that
22 houses the HIV inmates, however they are -- during the day, they
23 go out to the regular program the same as any other general
24 population non-HIV inmate.

25 So, that's basically the housing policy. Of course,
26 the care of the HIV inmates is departmental policy. The policy
27 is directed out of -- out of our headquarters in terms of the
28

1 Health Services Division, and our medical staff comply with that
2 policy in terms of the treatment we provide to the inmates.

3 SENATOR MELLO: Let me ask the lady, then.

4 You're familiar with this CMF facility at Vacaville,
5 but in your opinion, is this gentleman administering the formal
6 state policy differently than other institutions, or is it being
7 carried out the same way?

8 Is there a problem with the statewide methodology
9 of handling HIV positive patients, or is it just this one facility
10 that's doing it differently than other facilities?

11 MS. WOOD: I'm not really qualified to answer that,
12 but what I would say is that I think it's a problem everywhere,
13 not the methodology, but the overcrowding and the conditions in
14 all of our prisons.

15 SENATOR MELLO: So it is statewide, then, based on
16 that.

17 MS. WOOD: I have no experience with the other
18 facilities, other than knowing that they're all overcrowded.

19 SENATOR MELLO: Well, I'm concerned about his
20 treatment of all inmates, but the whole AIDS epidemic is getting
21 larger, and larger, and larger, and I think we just have to find
22 ways of treating it.

23 Mr. Chairman, I'm reluctant to ask Mr. Gomez if he
24 would volunteer to come and maybe shed some light on this. He's
25 a person I have a lot of respect for.

26 SENATOR CRAVEN: Fine.

27 SENATOR MELLO: He was confirmed by this Committee.
28

1 SENATOR CRAVEN: Thank you for the testimony, dear.

2 SENATOR MELLO: Mr. Gomez, what I'd kind of like to
3 know, you've heard all of the allegations there. Is there a
4 problem statewide? Is there something you need to come to the
5 Legislature for and ask for?
6

7 Your Department of Corrections budget certainly is,
8 in a tough year like this, being cut a lot less than a lot of
9 other departments, but also the spread of HIV and AIDS is
10 something that's having dire consequences.

11 From your own perspective statewide, do you think
12 this facility is treating patients differently than others? Or
13 is it something that's coming down from the top?

14 MR. GOMEZ: I believe this institution is in
15 compliance with our requirements.

16 I think they are treating people different than
17 others, because they have the most debilitated AIDS clients
18 within the system. As people get sick, they only -- very sick,
19 they only go to three institutions when they need significant
20 medical care: CMC, CMF, and CIM. They're the only ones that
21 have licensed hospitals.

22 So, when the disease progresses to a point where you
23 need significant medical care, you're going to be transferred to
24 one of those three facilities. Vacaville is the largest of
25 those facilities and has the most resources and capability to
26 deal with it.

27 So, I think when the individual spoke about statewide
28 versus Vacaville, certainly there's much more pressure on

1 Vacaville because it becomes a hub for the state.

2 When Mr. Ingle said that he opened up -- is opening
3 up a 500-bed unit, right now we only have 150 people that are
4 going to move into that unit. We're opening up a 500-bed unit
5 because we know in the future more and more people will be
6 coming in, and they'll be coming into that unit over the next
7 year or two years as the population and the epidemic continues
8 to impact the Department of Corrections.

9 But I think Mr. Ingle is clearly implementing within
10 those policies. I think that he's hampered by a couple of
11 things as a Director. We have a budget in which he has two
12 major issues in that budget, the first being a Patient
13 Psychiatric Program; second being a HIV Center. Both of those
14 items are on hold until whatever budget passes. We have
15 requested additional funds. In fact, Senator, we redirected
16 from within the Department, because there was no new money
17 available. We've redirected over \$3 million to those programs.

18 In addition to that, I think it's important to note
19 that he has requested, as he testified, additional recruitment
20 and retention bonuses, up to \$12,000 a year for doctors and
21 others, to try and better attract individuals to that. And some
22 of our recent labor agreements which you voted on in this body
23 have contained those agreement, subject to a budget, and subject
24 to financial approval.

25 I think in addition to that, we have recently worked
26 with Senator Roberti's office and Assemblyman Costa, and we are
27 putting in, in this year's '92-3 budget, there are all of the
28

1 working drawings and construction drawings for redoing this HIV
2 Center, about a \$3-4 million project.

3 We have asked, and Senator Roberti and Assemblyman
4 Costa are going to try and amend a bill to include the
5 construction money so that we can even further that along.

6 But I can tell you, it won't meet all the needs of --
7 that have been asked for by these groups. We will not have air
8 conditioning for everybody in Vacaville. That's a \$30 million
9 project; we will not have that.

10 So, there are somethings that they are requesting
11 that I think that we will be bringing on board when this budget
12 passes, and it will take time. It'll take six months, nine
13 months, to do some of this stuff.

14 On the other hand, there's somethings requesting on a
15 statewide policy basis that I don't think I would agree to.

16 SENATOR MELLO: Let me ask you another question,
17 briefly, and I appreciate you coming here to offer some help on
18 this.

19 Just briefly, what is your own philosophy and
20 perception of looking at HIV positive inmates --

21 MR. GOMEZ: I believe that --

22 SENATOR MELLO: -- as far as how do you think they
23 should be treated?

24 And a follow-up with that, as she pointed out, the
25 need for a hospice. I think the last year of life is probably
26 just like a terminal cancer patient or someone else, it's most
27 devastating as far as what their needs are.

1 So, what's your philosophy as far as once the
2 identification of an HIV positive, from that point, what is your
3 philosophy and perceptions as far as their treatment levels?

4 MR. GOMEZ: I think they should have adequate medical
5 care consistent with community standards. I think that's
6 difficult to achieve. We try on a daily, hourly basis --

7 SENATOR MELLO: How do you base community standards
8 in a place like -- or any place where there's a Vacaville or
9 Soledad, how do you measure them with the community?

10 MR. GOMEZ: I think you measure it by the amount of
11 nursing capability you provide, the type of equipment you
12 provide, the qualifications of the doctors you provide,
13 sufficient doctors in order to meet that need.

14 I think that Vacaville, because of the concentration
15 of individuals, has a difficult task to go out and recruit and
16 retain these individuals.

17 When I asked Mr. Ingle to take this job, he was the
18 Warden at Mule Creek, the toughest job in the state. I asked
19 him to move from Mule Creek to come here, because I thought he
20 would have the consistency, the caring, and the dedication over
21 a five-year period to make this a model program.

22 I recognize that today, that it is not a model
23 program, but it is an awful good program. We must remember a
24 couple things. One, the first thing it is is a prison. The
25 first thing it is, is these people were convicted of a felony.

26 The second thing is, it's a hospital, and they should
27 be provided medical treatment.
28

1 We have a compassionate relief program that I think
2 is operating much better today than it was in the past. I think
3 we have some improvements that have been made, but we have a
4 ways to go.

5 But I can tell you very clearly that this is a
6 difficult problem for the Department of Corrections, as it's a
7 difficult for our society.

8 You would not believe the number of people that
9 return to Vacaville on a parole violation because they can't get
10 adequate medical care in the community, or an adequate support
11 system in the community, who come back to Vacaville because
12 there is an adequate level of care.

13 Now, that does not speak well for us as California.
14 It does not speak well for us as California, but it speaks well
15 that at least there's a level of treatment going on at the
16 California Medical Facility and a support system there.

17 SENATOR MELLO: Let me ask if you meant to say it the
18 way I heard it come out, and that is, are people who are on the
19 outside that become a technical parole violator, get back on the
20 inside and get referred to Vacaville as a way of getting
21 treatment for AIDS?

22 MR. GOMEZ: Yes, I think your staff would verify
23 that. I think if you'd talk to people, you would verify that.
24 I think that it depends upon the community

25 You go to San Francisco, there's a network in San
26 Francisco, a very good network. You go to L.A., in many areas
27 there's a network, and San Francisco, where there's a caring
28

1 community that comes together and takes care of people.

2 That same network does not exist throughout this
3 state in 58 counties in that same degree. There are many people
4 who don't end up in those particular networks. And I've gone to
5 L.A. and met with ACT UP. I've gone and met with the AIDS
6 Project and others, to talk to them about that, to try and work
7 with them.

8 There is not the same level of care out in our
9 community that some of us would like to believe today, and I
10 think that you would find that people have come back to
11 Vacaville in a large number on that issue.

12 SENATOR MELLO: Well, thank you for answering that.
13 The thing is that I know people that have moved to San
14 Francisco, for an example, from around the world because of the
15 services you talk about.

16 Now just to see what this impacts, these are people
17 that probably could be residing outside of prison in a community
18 atmosphere, but once they go back, \$26,000 for incarceration in
19 a state institution --

20 MR. GOMEZ: About 20,000, plus then you would add --

21 SENATOR MELLO: Plus the AIDS support services which
22 are estimated at how much more?

23 MR. GOMEZ: It depends -- depends upon the
24 individual, how long they're there.

25 But obviously, if someone goes through a significant
26 crisis with AIDS over time, bills can run to hundreds of
27 thousands of dollars for treatment, for medication, and so on.
28

1 SENATOR MELLO: This is something that I was not
2 aware of. I was aware of it now that you mention it, but it's
3 sure something we have to take a look at in the budget. In
4 other words, we could save considerable amount of money if we
5 would have more support services throughout the state, rather
6 than doing what's happening, that that is people coming back to
7 prison in order to get AIDS treatment.

8 MR. GOMEZ: I can only tell you that the higher --
9 the highest parole revocation rate of anything we have in the
10 Department is the revocation rate on individuals with HIV, a
11 significant return.

12 SENATOR MELLO: Thank you very much.

13 SENATOR CRAVEN: Very well, anyone else who wishes to
14 testify? Please come forward.

15 MS. HARRIS: Good afternoon, almost evening, Mr.
16 Chairman, ladies and gentlemen.

17 My name is Joy Harris. I obviously don't have a
18 prepared speech.

19 I am a retired public health nursing director. I have
20 over 35 years of experience in general health fields, public
21 health; nine years affiliation with correctional health. So, I
22 have some understanding of red tape, budgets, locked doors, all
23 the multiple problems that people can be involved with when
24 you're talking correctional health.

25 I happened to be instrumental in working with the
26 California Medical Association in setting up the third
27 accredited correctional health program in the State of
28

1 California, the Santa Barbara County Jail Health Program.

2 So, I do have some understanding of what Mr. Ingle is
3 facing. He is facing it on a much larger scope than I was
4 concerned was, and I appreciate fact.

5 I have no question about his qualifications as a
6 Warden. It's far beyond my comprehension.

7 I do have, I think, probably a better idea what he's
8 facing from the health point of view. I am a frequent visitor
9 to Vacaville, because we have clients there from the
10 Sierra-Foothill AIDS Foundation. I am one of the founders. I
11 am currently an officer of the Board and past president.

12 And Mrs. Wood, while she is a volunteer, was the
13 founder of our program, as she was the program in Santa Barbara
14 County, which is now about a half million dollar AIDS service
15 program.

16 So, you probably meant no implication of downgrading
17 her as a volunteer from a paid person, but dealing with
18 volunteers on a large scale, it sort of felt that way to me.
19 So, I'd like to put forward this lady as a model for this state
20 in setting up programs and dealing with people with AIDS/HIV
21 disease.

22 Having been a visitor to Vacaville, having talked
23 with persons there who have AIDS, persons there who are HIV
24 positive, person who were involved in setting up budding
25 programs, such as the hospice unit, such as the trained buddies
26 or matches, who were there to support persons who are sick and
27 dying with AIDS, and having seen those programs deteriorate over
28

1 the past year, I have written to Mr. Ingle about these concerns
2 of mine as a health professional. I received a very nice
3 response from him.

4 And I know that he is not totally responsible for all
5 these things, but the buck is going to stop on his desk. And if
6 the programs are deteriorating in his presence, while there may
7 be plans for doing things at a later date, the need is now. The
8 need will only grow.

9 I have no opposition to him as Warden, because I have
10 no expertise to question his expertise.

11 There are programs available in the State of
12 California to assist in implementing excellent correctional
13 health medical programs. I support the suggestions or demands,
14 or whatever you call it, that have been made today for programs
15 at Vacaville at the California Medical Facility. I would
16 encourage Mr. Ingle to surround himself with the best possible
17 medical advice, and to re-establish the programs that were
18 already starting, because he was on the way to becoming a model,
19 not only for California, but for other states.

20 If he is confirmed, I wish him well, and refer him to
21 the California Medical Association and their correctional health
22 facility program for advice and support.

23 Thank you very much.

24 SENATOR CRAVEN: Thank you.

25 Anyone else wish to comment?

26 MR. LOFASO: Thank you, Mr. Chairman. Alan Lofaso
27 representing AIDS Project Los Angeles.
28

1 I'll attempt to be brief.

2 I represent the facility or the organization in Los
3 Angeles that Mr. Gomez referenced earlier, that the Department
4 has worked with in the effort to better the conditions for HIV
5 infected inmates.

6 And I'm not privy to all of the discussions between
7 our organization and Mr. Gomez and Mr. Gomez's office, but I'm
8 aware that one of the issues we're concerned about is the
9 ability of prisoners to access experimental treatments that, in
10 many cases, are made available on a compassionate use basis by
11 manufacturers at no cost to either the Department or the
12 patient.

13 This does require physicians who are versed in the
14 medicine using these treatments, but it doesn't actually cost
15 the Department any more.

16 I'd also like to observe that Ms. Wood's concerns
17 that she addressed, the conditions she would like imposed on the
18 confirmation should it happen, eight of them have no added cost
19 to the Department, as I understand them, and I think I'm being
20 conservative: to restore a staffer who wasn't there; or to
21 increase the utilization of the Men's Advisory Council; or to
22 comply with the Gates Consent Decree, which is already the law;
23 or to immediate curtail custodial or medical technical
24 personnel's shortstopping and otherwise tampering with
25 legitimate physician's orders.

26 Some of these issues are sensitivity issues, and
27 issues that relate to understanding the needs of the prisoner
28

1 and won't add any cost to the Department of Corrections, and
2 there's about eight of those fifteen, I think, fit in that
3 category.

4 Finally, with regard to the plan, I want to offer a
5 statistic for the Department that I believe as of April last
6 year, there were 737 HIV infected inmates in the Corrections
7 system. By the middle of 1997, I believe, there are supposed to
8 be in excess of 2200, and that is Department of Corrections
9 figures. And that is the impetus for much of the concern about
10 more aggressive planning to address these needs.

11 In closing, I'd just like to urge the Committee to
12 abide by the recommendation that Ms. Woods and Mr. Lewis made,
13 to engage in greater oversight. And as an organization that is
14 present both in Sacramento, we feel we'd also like to provide
15 any assistance we can in assisting that effort.

16 Thank you.

17 SENATOR CRAVEN: Very well, thank you very much.

18 Is there anyone else who wishes to testify? Yes,
19 ma'am.

20 SENATOR BEVERLY: While she's coming forward, Mr.
21 Chairman, may I ask the Warden a question?

22 SENATOR CRAVEN: Sure.

23 SENATOR BEVERLY: Who appoints the chief medical
24 officer, and the assistant warden, and these other positions?

25 MR. INGLE: Those positions are a level that my
26 recommendations are submitted to the Director of Corrections for
27 approval.
28

1 SENATOR BEVERLY: And he makes the appointment that
2 you recommend, thank you.

3 MS. YELLOWBIRD: Hi, my name is Ellen Yellowbird.
4 I'm with ACT UP, San Francisco.

5 And what I want to say is that under Ingle's
6 leadership, we have seen the situation at Vacaville in relation
7 to people with AIDS, their medical care, as well as their
8 support network, rapidly deteriorate. It's a serious situation.
9 And we just want to call attention to the fact that it has been
10 under his leadership that this has happened.

11 The Pastoral Care Services has disintegrated just
12 within the past few months, to the point where it's barely
13 functioning. There's no excuse for that. It was a volunteer
14 service.

15 SENATOR CRAVEN: May I ask, when we use the term
16 Pastoral Care, is that something of a religious nature?

17 MS. YELLOWBIRD: Right. It's run by the Catholic
18 Chaplain, and it uses volunteers who are inmates at the prison
19 as well as volunteer from outside, who then -- it's a support
20 hospice like support network for prisoners with AIDS.

21 This -- it has deteriorated. It has not been allowed
22 to --

23 SENATOR CRAVEN: The Chaplaincy presumably existed
24 long before we had the crisis.

25 MS. YELLOWBIRD: Right.

26 SENATOR CRAVEN: And now, again presuming, it's
27 reacting to the crisis which has befallen us, all right? Can
28

1 you follow me so far?

2 MS. YELLOWBIRD: No, I don't -- I really don't follow
3 you.

4 SENATOR CRAVEN: Well, what I'm saying is that longer
5 before anybody heard of HIV or AIDS --

6 MS. YELLOWBIRD: Right.

7 SENATOR CRAVEN: -- there was a Chaplaincy there.

8 MS. YELLOWBIRD: Right, of course. What I'm saying
9 is --

10 SENATOR CRAVEN: Now, how could that Chaplaincy have
11 deteriorated by virtue of a new problem?

12 MS. YELLOWBIRD: No, it's not the Chaplaincy. It's
13 that -- it's Wardens who have authority over what goes on in a
14 prison.

15 SENATOR CRAVEN: So, in other words, what you're
16 saying, as I understand you, is that because of the control
17 vested in the Warden, they have cut back services extended by
18 the Chaplains.

19 MS. YELLOWBIRD: Right, well, you see, this is --
20 this is a service where it's other inmates who are being trained
21 to counsel other inmates. Now, correctional officers can be
22 told to intimidate inmates to a point where it's going to be too
23 difficult for them to proceed with their function, and this has
24 been happening.

25 A number -- I mean, we don't need to go into all the
26 details. All I can say is, it was -- the setup was functioning
27 well. It needed to grow stronger. And then, in the past few
28

1 months, it has deteriorated in a number of ways, as has the
2 medical care now that doctors like Dr. Maisonet are not there.
3 And even before, Vacaville was, in a sense, a model facility for
4 HIV care because it was forced to become one, because of a
5 lawsuit, and even at that point, people were not really getting
6 appropriate medical care that they needed until they were very,
7 very ill.

8 So now, it's even worse. And it's an alarming
9 situation that we have happening there. And regardless of
10 whether Ingle is put as the Warden or somebody else, it's just
11 -- this needs to be addressed.

12 I really want to encourage the idea that Wardens that
13 come into these facilities at this point in time, in every
14 institution, especially at Vacaville, but in every one, really
15 needs to be well-versed in AIDS and HIV, because we have
16 high-risk communities. Those are -- people from high-risk
17 communities are predominately the ones ending up in prison. The
18 way HIV is spread is through drugs, it's through sex. We don't
19 have any way of having precautions for these things in prison,
20 so it's, you know, the rate it's spreading is incredible. And
21 we need people who are competent, capable, and not in denial
22 about AIDS.

23 Right now, Vacaville is a mess in terms of its AIDS
24 care. And this has -- it has deteriorated under Ingle at a
25 point where we need it go get better fast. We need physicians
26 who are well-versed in HIV and AIDS.

27 SENATOR CRAVEN: Fine, thank you very much.
28

1 Anyone else? Yes.

2 FATHER LESLIE: Mr. Chairman, I'm the Catholic
3 Chaplain at the California Medical Facility, and I would like to
4 speak to the last issue that was raised.

5 SENATOR CRAVEN: Would you state your name.

6 FATHER LESLIE: My name is Patrick Leslie.

7 Pastoral Care Services is the name we came up with to
8 try to define what we were about, which is to provide the
9 terminally ill inmates with quality, compassionate, palliative
10 care at Vacaville. And it's a program aimed at getting other
11 inmates to provide peer counseling and support.

12 And we've functioned now for -- since March of last
13 year. And the program, contrary to the last speaker, is not
14 disintegrating. The program has contained the same level of
15 volunteers as we started.

16 Like all programs in a prison, there have been
17 problems, and we have worked with them and worked through them.
18 And we continue to provide care.

19 I just wanted to put that on the record and say that
20 the number of volunteers are about the same. The number of
21 clients are growing, and we continue to provide in the best way
22 that we can at this time a quality, compassionate, palliative
23 care for our terminally ill.

24 SENATOR CRAVEN: May I ask a question.

25 How do you obtain peers? How do you reach out to get
26 the people who you feel are qualified to extend the service and
27 the compassion that is required?
28

1
2 FATHER LESLIE: We announce it through our Chapel
3 Program. We announce it through bulletins and fliers throughout
4 the institution. And most of all, I think, by word of mouth,
5 and then the inmates that are interested come forward. We begin
6 a screening process to see if they meet the criteria to work.
7 And if they do, we provide them with training, and then an
8 ongoing training program.

9 SENATOR CRAVEN: Do you have a regular quarterly
10 recruitment for this sort of thing, or when do you do that?

11 FATHER LESLIE: Yes, we have -- roughly every three
12 months we provide new training, and we have recruitment. At the
13 moment, we're recruiting for our training at the end of
14 September.

15 SENATOR CRAVEN: In your judgment, it has worked
16 well?

17 FATHER LESLIE: It has worked well, yes. It's
18 continued to work well, and we've had support at all times from
19 the Warden level, and particularly from Mr. Ingle since he came
20 into it. He's been very supportive.

21 SENATOR CRAVEN: Father, let me ask you, have you
22 noticed any difference between his tenure and that of his
23 predecessor?

24 FATHER LESLIE: Not in the support of our program.
25 The support has been the same. He's been very supportive at
26 that level.

27 SENATOR CRAVEN: Very well.

28 Any questions from any of the Member?

1 Thank you very much

2 Anyone else who wishes to testify?

3 I guess that's taken all of them.

4 SENATOR MELLO: I'd like to ask Mr. Ingle a question.

5 In view of the testimony here on this increasing
6 problem of the spread of the HIV positive, what do you think --
7 I'm asking what tools do you think you need as a Warden in
8 Vacaville from the state -- well, you'd have to go through your
9 Department of Corrections, but Mr. Gomez said you've already
10 asked him for additional money for doctors.

11 What can we do to help the situation, which appears
12 to be needing some help? I don't know just what it might be
13 from Sacramento.

14 MR. INGLE: I really think we're on the right
15 course, contrary to some of the testimony. We have not had a
16 hospice before. It was a proposal that was in the BCP that's
17 in this budget that we've been waiting for two months to receive
18 the money. Once that money is received, we will establish the
19 hospice.

20 SENATOR MELLO: Is that something you requested
21 yourself?

22 MR. INGLE: This was prior to my arrival. It was in
23 the BCP from last year.

24 There's also a step-down unit that we are planning to
25 have in place in the very near future. The Pastoral Care
26 Program has been in full operation through this time, and as
27 Father Leslie indicated, there's been 24 volunteer.
28

1 We have outside volunteers that come in, provide the
2 training to the inmates so they can get quality training.

3 We're establishing the unit down in the old Reception
4 Center area. It's centralized. We provide quality care. We
5 have some excellent physicians and health care provides at CMF.

6 I think the program, with the additional physicians
7 that we'll receive from BCP, from the capital outlay that we'll
8 receive, will go along ways to make it an outstanding program.

9 I do not think we're on the wrong track.

10 SENATOR MELLO: They mentioned specifically lack of
11 air conditioning. Are they treated differently as far as air
12 conditioning than other inmates?

13 MR. INGLE: The only area in the prison that has air
14 conditioners is the DMH 150-bed inpatient hospital and our
15 65-bed hospital. We will provide air conditioning in our
16 step-down unit and in our hospice, but other than that, there's
17 not air conditioning within Vacaville.

18 As the Director indicated, it would be 30 million-
19 plus to try to air condition the entire place.

20 We have installed coolers in some areas of our
21 psychiatric housing areas, because of the concerns from last
22 year and the deaths that had occurred, and we are continuing to
23 pursue coolers which take a lot less energy. They're a lot less
24 expensive than air conditioning.

25 SENATOR MELLO: You mentioned air conditioning the
26 entire place, do you believe that the treatment of HIV positives
27 should have different level of air conditioning than -- because
28

1 of the pain and suffering going on with the deterioration of
2 themselves, than, let's say, other normal, healthy inmates?

3 MR. INGLE: Other than the inmates that could benefit
4 from a hospice or a step-down unit, I have not had any
5 recommendations from the medical staff that that would be a need
6 item.

7 SENATOR MELLO: I guess once they're in intensive
8 care or acute care, then they are naturally in an air
9 conditioned unit.

10 What about, the lady also mentioned about the
11 avoiding of double celling. What is the policy now as far as
12 putting together an HIV positive with a non-positive person?
13 Are they put in the same cell together?

14 MR. INGLE: As was indicated earlier, we have
15 mediation that's occurring now in federal court with our
16 mediator in the Gates Consent Decree.

17 What our policy has been was that we will not double
18 cell and HIV inmate unless there's medical clearance.

19 SENATOR MELLO: You're not double celling them with
20 another --

21 MR. INGLE: Another inmate without medical
22 clearance.

23 SENATOR MELLO: In other words, they are put in a
24 separate cell?

25 MR. INGLE: They're all single cell at this point.

26 SENATOR MELLO: Single cell, unless the medical
27 directors provide an exemption where they can be double celled.
28

1 Would that be with another HIV positive patient?

2 MR. INGLE: That's correct, except at this time,
3 we have not double celled any. The inmates that have moved down
4 to the new HIV Center are all single celled. We have not double
5 celled any of them.
6

7 If through this mediation process we were able to
8 double cell, then we would only do it if it was medically clear.

9 SENATOR MELLO: The lady also mentioned the fact that
10 having electricity in each cell. I didn't quite ask her what
11 she meant by that.

12 Is that electric lights, or having electric plugs, or
13 what is that policy?

14 MR. INGLE: The Northern Reception Center, when it
15 was built, because it was going to be a Reception Center with
16 short-term inmates, they did not put electrical outlets in each
17 of the cells.

18 Part of this BCP that the Director talked bout, this
19 amendment to the bill that's going to provide the \$3.3 million
20 this year, will be to go in and renovate those cells and put in
21 electrical outlets.

22 As I indicated in my opening statement, as a
23 short-term fix in the one unit that we have HIVs at this time
24 without electrical outlets, we're doing a quick-fix to put
25 outlets in there.

26 SENATOR MELLO: What do they use the outlets for?

27 MR. INGLE: Fans, t.v.s. They have cell lights in
28 there already. It's basically for radios, t.v.s, personal fans.

1 SENATOR MELLO: Does that differentiate from other
2 inmates?

3 MR. INGLE: Yes, all the other units except for the
4 two -- two units down in the old Northern Reception Center do
5 not have electrical outlets.

6 SENATOR MELLO: That's going to be remedied now, in
7 your opinion, based on the budget --

8 MR. INGLE: That's correct. My medical -- excuse me,
9 my maintenance staff right now are working on the installation
10 of electrical outlets in the one housing unit that does not have
11 one, which is the HIV unit.

12 SENATOR MELLO: You say your capacity, you have 150
13 beds with HIV positive patients?

14 MR. INGLE: We have 150 inmates in closed wing.
15 Those are the inmates that are at risk of transmitting the
16 disease. And we have another 150 in an open wing.

17 We have capacity to increase to 482 with the staffing
18 and the capital outlay that's in the current budget.

19 SENATOR MELLO: You say at risk of transmitting the
20 disease, does that mean they test HIV positive?

21 MR. INGLE: No, they're already HIV positive, but
22 they involve themselves in at-risk behavior that could possibly
23 transmit the disease to somebody else.

24 SENATOR MELLO: So, you have a total of 300 in two
25 categories?

26 MR. INGLE: That's correct.

27 SENATOR MELLO: Thank you.
28

1 SENATOR CRAVEN: Any other questions?

2 SENATOR BEVERLY: Are you ready for a motion?

3 SENATOR PETRIS: On a different subject, I was
4 curious about the 900-something bed psychiatric outpatient
5 facility there.

6 Where do those patients come from?

7 MR. INGLE: From through the system.

8 SENATOR PETRIS: What's their average stay there?

9 MR. INGLE: I'm not sure that I know the answer to
10 that. They do come in for evaluation. If they are determined
11 to need psychiatric care, of course, we place them in our
12 program.

13 SENATOR PETRIS: That's right after conviction; isn't
14 it?

15 MR. INGLE: Any time during their stay with the
16 Department, from reception throughout their stay. If they're
17 determined a need to be evaluated, then of course they come to
18 our facility for the evaluation.

19 SENATOR PETRIS: Also there for treatment?

20 MR. INGLE: That's right.

21 SENATOR PETRIS: Thanks.

22 SENATOR CRAVEN: Very good, no further questions.

23 SENATOR BEVERLY: Move we recommend confirmation.

24 SENATOR CRAVEN: Senator Beverly moves.

25 SENATOR MELLO: I want to make one comment.

26 SENATOR CRAVEN: Senator Mello.

27 SENATOR MELLO: The lady listing fifteen conditions,
28

1 I don't believe the Rules Committee has the authority to impose
2 conditions at all on any nominee that's up for confirmation, but
3 those -- if anybody feels strongly about those items, and I know
4 she does, I feel they should be taken up with the Department of
5 Corrections, and try to implement them from the administrative
6 level.

7 I don't think we have any authority at all to impose
8 those kind of conditions on any nominee up fro Senate
9 confirmation.

10 I just want to let her know that and others, so that
11 they don't think we're not in sympathy with what they're doing.

12 SENATOR PETRIS: Unless it's a requirement to obey
13 the law. We've had that before.

14 SENATOR CRAVEN: I would say this, and ordinarily I
15 don't make such a comment as this, but I've been impressed with
16 both sides of this issue. I think the testimony on both sides
17 has been excellent.

18 I'm encouraged in hearing some the things that have
19 been said by Mr. Ingle and Mr. Gomez as well, but I don't think
20 there's any question in the minds of any of us that following
21 the conclusion of this particular hearing, with the proviso that
22 Mr. Ingle is approved, confirmed, there will be more interest in
23 what he is dealing with than there has been heretofore. And it
24 will be done with greater knowledge than I have had before.

25 I think that's helpful to you and to the people who
26 may stand in objection to you by virtue of things over which you
27 may not have had tremendous amount of control.
28

1 But I think it's been a good hearing. I hope you
2 would agree.

3 MR. INGLE: Yes, I do.

4 SENATOR CRAVEN: Senator Beverly has moved. Call the
5 roll, please.

6 SECRETARY WEBB: Senator Beverly.

7 SENATOR BEVERLY: Aye.

8 SECRETARY WEBB: Beverly Aye.

9 Senator Mello.

10 SENATOR MELLO: Aye.

11 SECRETARY WEBB: Mello Aye.

12 Senator Petris.

13 SENATOR PETRIS: Aye.

14 SECRETARY WEBB: Petris Aye.

15 Senator Craven.

16 SENATOR CRAVEN: Aye.

17 SECRETARY WEBB: Craven Aye.

18 Senator Roberti.

19 Four to zero.

20 SENATOR CRAVEN: Four to zero; to the Floor. Thank
21 you, and thank all of you that testified.

22 [Thereupon the final vote for
23 confirmation was 5-0, as Senator
24 Roberti's aye vote was added
25 pursuant to Senate Rule 28.7]

26 SENATOR CRAVEN: Next we have T. Warren Jackson,
27 Member, Fair Employment and Housing Commission.
28

1 MR. JACKSON: Good evening.

2 SENATOR CRAVEN: Good evening. Now that you're well
3 versed on the problems in the penal system --
4

5 MR. JACKSON: Yes.

6 SENATOR CRAVEN: -- talk to us about the problem in
7 the Fair Employment and Housing, I guess.

8 MR. JACKSON: Mr. Chairman, esteemed Members, I'm
9 honored to be before you again, last year on May 20th, and I'm
10 very honored to seek your confirmation of my appointment to
11 the Fair Employment and Housing Commission.

12 I've been serving since December, and I guess the
13 question that's generally asked is why do I think I'm qualified
14 for the position?

15 SENATOR CRAVEN: Yes.

16 MR. JACKSON: I think I'm imminently qualified. At
17 the risk of not repeating what I've already said in a written
18 letter to all of you, and not further delaying these
19 proceedings, particularly since I flew in from Philadelphia and
20 have been going since 2:00 o'clock our time, I'll try to be
21 brief.

22 I have been a labor employment lawyer since my
23 graduation from Harvard Law School in 1976, both in private
24 practice, O'Melveny and Myers, and for the last eight years at
25 Hughes Aircraft Company in Los Angeles.

26 Through all that time, I think I've tried to be
27 certain things: fair, sensitive, balanced but yet aggressively
28 enforcing civil rights. And that's either been in terms of

1 advising clients on the outside as well as advising other
2 members of employees of Hughes Aircraft Company, both management
3 as well as nonmanagement employees.
4

5 What I have tried to do is be -- and that, I think,
6 has carried over in terms of what we've done on the Fair
7 Employment and Housing Commission since my nomination, is to be
8 consistent in terms of our enforcement of that statute with an
9 eye on the legislative history and intent.

10 And it's important, when I sought out this position,
11 I did it with the view of knowing that we're in a critical
12 period, I think, in California, where many companies, and the
13 state is struggling with the notion of recognizing, valuing
14 diversity while we're in an economic downturn. And sometimes,
15 that creates a tension, and through that tension, you end up
16 with complaints and with litigation. And I think it's our job
17 to try to strike a balance, and to demonstrate that equal
18 employment opportunity and fair application to all people, as
19 well as in an economic recession, are not mutually exclusive
20 goals.

21 I am -- public service is something that is important
22 to me. That's why I've sought this out. I've done it
23 throughout my professional career. I want to briefly mention a
24 couple of things that I'm most proud of as they relate to this
25 particular area.

26 I have been involved over the last four years in both
27 the ABA as well as the California Minority Council programs.
28 What those programs are going to do are going to increase the

1 inclusion of minorities and women in the legal profession, the
2 notion being that if we in the legal profession cannot lead the
3 way in terms of greater inclusion, how can we expect our clients
4 and greater society to follow.

5 I have been Hughes's representative on both those
6 commissions since we've joined, and we are -- I am quite proud
7 of what Hughes has done, and how we have -- this is a marathon,
8 not a sprint -- but we've made great strides in terms of
9 increasing the inclusion of minorities and female lawyers in the
10 legal profession.

11 Also involved in most right now, and something I'm
12 also proud of, in light of the recent disturbances in Los
13 Angeles, I'm one of the deputy general counsel on the Special
14 Advisory Committee. That's a committee chaired by former CIA
15 and FBI Director William Webster, which is looking into the LA
16 PD's preparation for and response to the civil disorders in Los
17 Angeles. And we're looking at a lot of things, including the
18 structure of the Department, and how you can best avoid those
19 kinds of situations. In fact, that's why I was in Philadelphia.
20 I was interviewing members of the Philadelphia Police
21 Department.

22 I think, unlike other people who spoke here today,
23 I've got somewhat of a track record since my appointment. And
24 as I look back over the months since December, I think the
25 decisions we've rendered, and there haven't been that many, but
26 more importantly, the work we've done on drafting regulations
27 for the Family Care Leave Act, AB 77, I think demonstrate both
28

1 my commitment to the personal philosophy that I espouse, and I
2 think the entire Commission's strenuous effort in trying to make
3 sense out of what in some respects was a muddled statute; to try
4 to put on paper what the intent of the Legislators were, and not
5 to usurp that role, not to become Legislators ourselves.

6 I think we've done a heck of a job, and I'm proud of
7 that effort.

8 At this point, I think I can stop. I'm more than
9 happy to answer any questions you might have.

10 SENATOR CRAVEN: Very good, thank you.

11 Anyone have any questions? Senator Mello.

12 SENATOR MELLO: I just want to follow-up on this
13 whole area of affirmative action, and the goals, really, of
14 trying to bring ethnic groups somewhere into line with the
15 population. And as good a job as we're all saying we're doing,
16 what are the numbers right now with relationship to populations?

17 Like in California, three categories: Hispanics
18 working for the state, versus Hispanic population, percentage of
19 the total; Black, same thing; and the young Blacks.

20 MR. JACKSON: If I understand your question, it's
21 what is the percentage --

22 SENATOR MELLO: Let me finish it.

23 Hispanics make up, let's say, 20 percent of the
24 state's -- it's over 22 percent of the state's population.
25 They're right bout at 9 million out of 30 million, 22 percent.

26 In state jobs, what is the percentage of people
27 working in the state who represent that ethnic group? Is it 17,
28

1 11 percent, or 35 percent?

2 Same thing with Blacks, who make up about 68 percent
3 of the population, and the same thing with young Blacks. How do
4 they -- I know they're under-represented.

5 MR. JACKSON: I can't confirm that. I have no
6 knowledge about what the representation of the minorities are in
7 state government.

8 SENATOR MELLO: Then I won't ask you to answer the
9 question. What I'll ask you to do is look at those numbers from
10 within your agency and just take a look at them, see if you
11 think there's room to kind of reach out and try to balance out
12 these numbers, which have been lagging way behind here for
13 years. It's not something that's come along lately.

14 MR. JACKSON: I can comment.

15 It seems to me, trying to reflect upon private
16 industry, as industries try to -- putting aside -- I don't want
17 to get into the argument of goals versus quotas -- but just the
18 notion of valuing diversity, and in the climate that we have now
19 where there is limited hiring, in point of fact what you're
20 really seeing is downsizing. It's a real challenge, not so much
21 in terms of trying to increase percentages, but rather trying to
22 maintain being sensitive to the diversity or lack there of that
23 you may have in your current workforce. That's the challenge
24 that all employers, including Hughes, are facing, as we
25 downsize.

26 SENATOR MELLO: I want to make it clear, I did not
27 use the word quotas.
28

1 MR. JACKSON: No, you did not.

2 SENATOR MELLO: I do believe in goals and setting
3 forth programs that will reach out, provide, you know, education
4 and needed job skills so that when openings, positions, become
5 available, they can compete for the job.
6

7 I just think we have to do more in that area. Women
8 and minorities are under-represented in the workplace. And
9 amongst the state employees in California, we've had the charts
10 before us many times in the past, and I know they're available.

11 Thank you.

12 SENATOR CRAVEN: Is there anyone in the audience who
13 wishes to testify, either pro or con?

14 Well, that's fine.

15 Senator Beverly.

16 SENATOR BEVERLY: I'm pleased to make a motion we
17 recommend confirmation.

18 I've known of Mr. Jackson through Hughes Aircraft for
19 some time. He enjoys a fine reputation, at least in the Hughes
20 community, which is a large community. We have a mutual friend
21 in Al Hollingworth, now retired.

22 MR. JACKSON: Yes, we do.

23 SENATOR CRAVEN: Do you ever get to Hughes down in
24 Carlsbad?

25 MR. JACKSON: Yes, in fact I'm pleased to say we're
26 adding -- we've got another facility that's also in the San
27 Diego area where we're adding jobs.

28 SENATOR CRAVEN: That's good to hear.

1 Following this vote, I want to make mention of
2 something else.

3 Call the roll, please.

4 SECRETARY WEBB: Senator Beverly.

5 SENATOR BEVERLY: Aye.

6 SECRETARY WEBB: Beverly Aye.

7 Senator Mello.

8 SENATOR MELLO: Aye.

9 SECRETARY WEBB: Mello Aye.

10 Senator Petris. Senator Craven.

11 SENATOR CRAVEN: Aye.

12 SECRETARY WEBB: Craven Aye.

13 Senator Roberti.

14 Three to zero.

15 SENATOR CRAVEN: Three-zero to the Floor.

16 Congratulations.

17 [Thereupon the final vote for
18 confirmation was 4-0, as Senator
19 Roberti's aye vote was added
20 pursuant to Senate Rule 28.7]

21 SENATOR CRAVEN: I wanted to ask you if you knew
22 either Senator Becky Morgan or Senator Quentin Kopp?

23 MR. JACKSON: No, I do not.

24 SENATOR CRAVEN: Well, I would suggest you get to
25 know them, because Senator Morgan, Becky, is a graduate of your
26 undergraduate alma mater, and Quentin Kopp is a graduate of your
27 law school. I'm sure they'd be very happy to meet you
28

1 [Thereupon the Senate Rules
2 Committee acted upon legislative
3 agenda items.]

4
5 SENATOR CRAVEN: Now, number eight on the long list
6 which we've gone through, Peggy L. Kernan, Warden, Solano County
7 State Prison.

8 Ms. Kernan, sorry we've kept you waiting so long.

9 MS. KERNAN: It's quite all right.

10 SENATOR CRAVEN: But better late than never.

11 MS. KERNAN: I was happy to be last.

12 SENATOR CRAVEN: Now you know what it's all like.
13 Hopefully, you won't have any problem.

14 MS. KERNAN: Senator, my name is Peggy Kernan. I've
15 been serving as the Warden at the California State Prison,
16 Solano and Vacaville, since January of '92.

17 I've been employed by the Department of Corrections
18 for 28 years, entering through the clerical ranks and promoting
19 to an analyst position. In 1979, I transferred to San Quentin
20 State Prison as a correctional lieutenant. This assignment
21 provided me with valuable experience and knowledge of prison
22 line operations. This position, this experience, also allowed
23 me the opportunity to prepare myself for further managerial
24 positions.

25 Subsequent to this assignment, I had worked three
26 other institutions, promoting through the ranks, holding
27 positions in supervisory, middle management, and top management
28 classifications. My knowledge of prison management has been

1 further enhanced by serving on a variety of departmental task
2 forces and special projects which have afforded me an
3 understanding of the departmental perspective.
4

5 These experiences and my previous assignment s the
6 Chief Deputy Warden of Mule Creek State Prison for over three
7 years, have provided me the skill and knowledge necessary to
8 perform the duties of a Warden.

9 My management style has always been one of open
10 communication, and I pride myself on my people-oriented
11 philosophy. I take seriously my responsibilities to be fair in
12 dealing with any and all issues which impact staff or the inmate
13 population.

14 Based on my career experiences, I believe that I have
15 the abilities to perform as a Warden and meet the expectations
16 of this Committee and the Department -- and the Director of
17 Corrections.

18 SENATOR CRAVEN: Thank you very much.

19 Any questions of the Rules Committee at this time?

20 Anyone wish to testify in favor? There are a few
21 coming up.

22 MS. CHAFFER: Good evening. My name is Sue Chaffer.
23 I'm a correctional officer at California State Prison, Solano.
24 I'm also the CCPOA Chapter President at Solano.

25 I'm here at the request of my fellow offices to
26 speak on their behalf on the confirmation of Ms. Kernan.

27 Ms. Kernan has shown continual support to the custody
28 line staff in the short period of time that she's been assigned

1 at California State Prison, Solano. It's quite evident that Ms.
2 Kernan's walked the toughest beat in the state, as a line staff
3 member. And her custody experience shows through in her
4 policies and procedures that she's implemented since she's been
5 there.

6
7 When we go to Ms. Kernan, our concerns are met with
8 receptiveness and a true understanding of our position, along
9 with resolutions that are reasonable.

10 As Ms. Kernan has promoted to the position of Warden
11 at California State Prison, Solano, she's maintained a strong
12 sense of staff safety, along with fairness and a respect in
13 dealing with the correctional officers at California State
14 Prison, Solano.

15 Ms. Kernan has given the correctional officers a
16 sense of pride to say that we work at California State Prison,
17 Solano, and that our Warden is Ms. Peggy Kernan.

18 So, on behalf of the officers at the California State
19 Prison, Solano, we support the confirmation of Ms. Kernan.

20 Thank you.

21 SENATOR CRAVEN: Thank you very much. Very nicely
22 done.

23 We're getting to know you.

24 MS. MCKINNEY: I won't introduce myself again,
25 because this is now the third time.

26 In the interests of time, I'm not going to give you
27 the speech that I had prepared for Ms. Kernan.

28 SENATOR CRAVEN: Just a ringing endorsement?

1 MS. McKINNEY: A ringing endorsement. You couldn't
2 find anyone with more integrity or more fairness than Ms.
3 Kernan.
4

5 SENATOR CRAVEN: I've had that suspicion.

6 Anyone else who'd like to make a comment?

7 How about someone who may not be in favor? Anyone
8 along that line? None.

9 Very well, let's have a motion.

10 SENATOR BEVERLY: Move we recommend confirmation.

11 SENATOR CRAVEN: Senator Beverly moves.

12 Call the roll, please.

13 SECRETARY WEBB: Senator Beverly.

14 SENATOR BEVERLY: Aye.

15 SECRETARY WEBB: Beverly Aye.

16 Senator Mello.

17 SENATOR MELLO: Aye.

18 SECRETARY WEBB: Mello Aye.

19 Senator Petris.

20 SENATOR PETRIS: Aye.

21 SECRETARY WEBB: Petris Aye.

22 Senator Craven.

23 SENATOR CRAVEN: Aye.

24 SECRETARY WEBB: Craven Aye.

25 Senator Roberti.

26 Four to zero.

27 SENATOR CRAVEN: Four to zero; to the Floor.

28 MS. KERNAN: Thank you, Senators.

1 [Thereupon the final vote for
2 confirmation was 5-0, as Senator
3 Roberti's aye vote was added
4 pursuant to Senate Rule 28.7]
5

6 SENATOR PETRIS: After we made the vote on Mr.
7 Caffrey for PERB, some information came to my attention. I
8 didn't have before, and I'd like to re-open it so I can ask him
9 some questions.

10 This is a move that we re-open or set aside the
11 prior vote for reconsideration on Mr. Caffrey.

12 SENATOR CRAVEN: Not now.

13 SENATOR PETRIS: At a future time.

14 SENATOR CRAVEN: You've all heard the request.
15 Basically it's a request for reconsideration.

16 SENATOR MELLO: I just want to ask, I think the
17 proper motion's reconsideration.

18 SENATOR PETRIS: I move we reconsider.

19 SENATOR CRAVEN: We didn't close roll on that. The
20 vote was three-zero, I think.

21 MR. BERG: Open the vote. Senator Petris can change
22 his vote.

23 SENATOR CRAVEN: Was Senator Petris one of the
24 voters?

25 SENATOR PETRIS: I made the motion.

26 SENATOR CRAVEN: I recall now.

27 Let's open the roll on the confirmation of David M.
28 Caffrey, Member, Public Employment Relations Board, and call the

1 absentees.

2 SECRETARY WEBB: Senator Mello.

3 SENATOR MELLO: I'm sorry here. What's the motion?

4 SENATOR CRAVEN: I'll give Nick a chance to change
5 his vote.

6 SENATOR PETRIS: No, no. That's not what I want to
7 do.

8 SENATOR MELLO: He wants reconsideration.

9 MR. ROLLENS: You have to dispose of the roll call.
10 Once you've started the roll call, it has to come to some
11 conclusion.

12 SENATOR CRAVEN: Did we finish the roll call?

13 MR. ROLLENS: No.

14 SENATOR MELLO: There will be another motion after
15 the vote's announced, okay.

16 SECRETARY WEBB: Senator Mello. Senator Roberti.
17 Three-zero.

18 SENATOR CRAVEN: Now do you want to move --

19 SENATOR PETRIS: Now I'd like to move reconsideration
20 be taken up.

21 SENATOR CRAVEN: Senator Petris moves
22 reconsideration. Call the roll.

23 SECRETARY WEBB: Senator Beverly.

24 SENATOR BEVERLY: No.

25 SECRETARY WEBB: Beverly No.

26 Senator Mello.

27 SENATOR MELLO: Aye.
28

1 SECRETARY WEBB: Mello Aye.

2 Senator Petris.

3 SENATOR PETRIS: Aye.

4 SECRETARY WEBB: Petris Aye.

5 Senator Craven.

6 SENATOR CRAVEN: Aye.

7 SECRETARY WEBB: Craven Aye.

8 Senator Roberti.

9 Three to one.

10 SENATOR PETRIS: Thank you.

11 [Thereupon this portion of the
12 Senate Rules Committee hearing
13 was terminated at approximately
14 6:45 P.M.]

15 --oo0oo--
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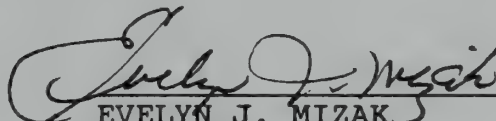
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of August, 1992.


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1:57 P.M.

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SENATE RULES COMMITTEE
STATE OF CALIFORNIA

HEARING

STATE CAPITOL
ROOM 3191
SACRAMENTO, CALIFORNIA

WEDNESDAY, AUGUST 26, 1992

1:57 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter

APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR NICHOLAS PETRIS

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

BOYD H. GIBBONS III, Director
Department of Fish and Game

SENATOR DAN MCCORQUODALE

SENATOR DAN BOATWRIGHT

DAVID M. CAFFREY, Member
Public Employment Relations Board

A. VERNON CONRAD, Member
California Regional Water Quality Control Board
Central Valley Region

JOHN KREBS, Former Supervisor
County of Fresno

LYNN SADLER
Planning and Conservation League

MICHAEL PAPARIAN
Sierra Club

EILEEN E. PADBERG, Member
Commission on the Status of Women

APPEARANCES (CONTINUED)

SENATOR BILL LOCKYER

JUDITH RYAN, Retired Judge
Superior Court, County of Orange

KAREN R. PETERS
National Organization of Women
Orange County Chapter

DEBORA HINTZ
National Association of Women Business Owners, and
National Women's Political Caucus, Orange County

ROBERT NELSON, President
Nelson Communications

ALETA CARPENTER

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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

SENATOR CRAVEN: Now we have two of our Senators who wish to testify on one of the hearings which we have today. We are going to start with Boyd H. Gibbons III, Director, Department of Fish and Game.

We have with us today Senator Boatwright and Senator McCorquodale, who wish to speak at this time.

Do you want to lead off, Dan, or do you want comments from the appointee?

SENATOR MCCORQUODALE: I'm not sure whether you wanted to have any opening comments, or just want me to go just go into it. I'm willing to just start off.

SENATOR CRAVEN: That's all right.

SENATOR MCCORQUODALE: I've had a lot of discussions with Mr. Gibbons, obviously, over a period of time. We've communicated on a lot of issues. He chairs -- I mean, he's the Director of a department over which my policy committee has jurisdiction, as well as I chair the subcommittee, Subcommittee 2, which has budget responsibilities there.

And I've been impressed with him in a lot of different ways. I think that his intentions are good. I think his hopes and aspirations for the Department are good.

But we've had a lot of directors that fill that category in Fish and Game, and Fish and Game, and the activities over which they oversee, have deteriorated tremendously in California in the last 20-25 years.

1 So, it seems like at this point we have to either
2 turn that Department around, we have to renew our efforts at
3 dealing in a more positive and progressive way with the issues
4 before the Department of Fish and Game, or else all is lost in
5 the area of fish and wildlife.

6 This Department is one, it's the only, what we would
7 call the environmental protection department in the state.
8 Others have some charge to do so; however, that's their
9 secondary responsibility. The Department of Water Resources has
10 a responsibility to move water around the state and protect
11 environment, but obviously, in moving water around the state,
12 that's their number one charge. And they do what they can for
13 environmental issues, but this Department has it as its number
14 one responsibility.

15 It surfaced in the last few weeks an issue which I
16 will use to illustrate the problems that Mr. Gibbons will face,
17 in that the Department of Forestry has proceeded with
18 regulations which would require that anyone who addresses or
19 comments on a timber harvest plan will have to be licensed or
20 certified by the Department of Forestry.

21 Now, if you stretch this out to the ultimate, it
22 means that any citizen who wants to make a comment on the timber
23 harvest plan would have to be licensed by the Department of
24 Forestry. I doubt that that's their intention, but certainly
25 what their intention is, is to make a decision over which
26 biologists they will allow from the -- over which biologists
27 from the Department of Fish and Game that they will allow to
28

1 make comments on timber harvest plans and operations.

2 So, first I'd like to ask Mr. Gibbons if he thinks
3 it's appropriate for the Department of Forestry to have
4 licensing authority over all biologists working to protect fish
5 and wildlife on any wildlands, whether it's timber harvest lands
6 or other lands?

7 MR. GIBBONS: No, I don't necessarily think that's
8 necessary.

9 SENATOR MCCORQUODALE: What do you think about them
10 having to license any University of California professor who
11 might want to make comments on a timber harvest plan?

12 MR. GIBBONS: Well, I'm not sure, Senator. I assume
13 this is in reference to the existing law?

14 SENATOR MCCORQUODALE: It's regulations which they're
15 moving ahead on. Water Board?

16 MR. GIBBONS: I haven't looked at the regulations
17 themselves, so I don't know how broad they might be.

18 SENATOR MCCORQUODALE: I'm amazed at my luck. I was
19 here a couple weeks ago, and I asked an appointee to the
20 Regional Water Quality Control Board if he had ever made a
21 statement, and I read the statement to him. I couldn't believe
22 that he would agree that he had. And then he reaffirmed it.

23 I can't believe that I would ask Mr. Gibbons this
24 question, and he would tell me that he hadn't read it, because
25 that's my point.

26 Who's going to protect fish and wildlife if the
27 Department of Forestry proceeds on and says that Biologist A,
28

1 who maybe used to work for the Department of Forestry and
2 changed over to the Department of Fish and Game, is the only one
3 they will accept as being -- as making comments, and that
4 biologist is one that's very favorable towards timber
5 harvesting, who protects the fish? How do we do this?
6

7 And in my opinion, that's your responsibility. And
8 you should be scrambling like mad to keep that from happening,
9 because not only me, but a lot of the people who have raised
10 questions about your willingness to deal with issues in the
11 Department, is whether you have enough clout within the
12 Department of Resources to counter the Department of Water
13 Resources and the Department of Forestry.

14 Can you give us any evidence of your ability to
15 counter their clout? There's no question that the Department of
16 Forestry and the Department of Water Resources has clout.

17 MR. GIBBONS: I'll be -- we'll be sitting down with
18 them to discuss this with some intensity, obviously.

19 SENATOR McCORQUODALE: Well, last night I got a call
20 from the Resources Agency to tell me that your Department didn't
21 have a strong position on the language in a bill which would
22 make it clear that Forestry does not have licensing authority
23 over biologists in your Department.

24 Is that a correct representation of your position?

25 MR. GIBBONS: Well, I think you're referring to a
26 clean-up bill we have that had a bunch of technical amendments,
27 and this is a provision --

28 SENATOR McCORQUODALE: That's not very technical.

1 It's just plain old English language that says that the
2 Department of Forestry can't say who in the Fish and Game
3 Department gets to comment on --
4

5 MR. GIBBONS: Right, I was just speaking on -- that
6 provision, as I understand it, is in a piece of legislation that
7 involves a lot of cleanup for us of technical amendments.

8 SENATOR McCORQUODALE: If you don't deal with it in a
9 bill, how will you deal with it?

10 MR. GIBBONS: Well, we can deal with it in a separate
11 bill.

12 SENATOR McCORQUODALE: With a Republican author?

13 MR. GIBBONS: I'm sorry?

14 SENATOR McCORQUODALE: With a Republican author? I
15 mean, how would you do it?

16 MR. GIBBONS: I'm not sure that the authorship is so
17 much the question. It's the substance of the issue that you're
18 raising, and I --

19 SENATOR McCORQUODALE: There won't be any bills that
20 can go in until, for now, for another three months. They won't
21 get passed; take effect a year and three or four months from
22 now.

23 What happens in the meantime if the Department tells
24 you that you can't -- that your biologist can't comment on those
25 plans without being licensed by them?

26 MR. GIBBONS: Well, we'll be sitting down with the
27 Department of Forestry on this. It's not a concluded matter.

28 SENATOR McCORQUODALE: Of course, the way we could

1 deal with it is, we could transfer that responsibility to
2 someone else at some point. I guess that's one possibility.

3 I just hate to see you going down the road with
4 another sort of a wobbling way of looking at the issues, and
5 that we would reach this point with this.

6 The Department of Forestry, there's no question. I
7 mean, that guy's moving ahead. He's going. He's going for the
8 jugular on you. You're not going to be able to make any comment
9 on timber harvest plans that he doesn't license the person who's
10 making those comments.

11 Does it make sense to you?

12 MR. GIBBONS: No. I don't think that the Board of
13 Forestry should be licensing Fish and Game biologists, no.

14 SENATOR MCCORQUODALE: Why wouldn't you have raised
15 hell about it?

16 MR. GIBBONS: I'm sorry?

17 SENATOR MCCORQUODALE: Why wouldn't you have raised
18 hell bout it?

19 MR. GIBBONS: Well, it'll be something I'll do right
20 away.

21 This particular matter, in terms of the legislation
22 you were referring to, is a side issue, but the substance of the
23 issue you're raising, I'm going to sit down with the Department
24 of Forestry.

25 SENATOR MCCORQUODALE: My jurisdiction and Senator
26 Dills' overlapped on the issue of solid waste. You'll remember
27 the battle we had for over a year over that issue. I mean, I
28

1 didn't give up until I really finally got and looked at a
2 three-to-two vote on the Rules Committee that did it.

3
4 I mean, it seems to me that you wouldn't give up any
5 jurisdiction you had over Fish and Game issues.

6 MR. GIBBONS: I haven't given up anything.

7 SENATOR McCORQUODALE: But you are. They've done it
8 under law, they think. And they've not been challenged. And
9 the only way to stop it is to clarify that they don't have the
10 authority to license people. And the Department representative,
11 or the Agency representative, told me that your Department
12 didn't have a strong position on the language in a bill which
13 will make it clear that Forestry does not have licensing
14 authority over the biologists in your Department.

15 MR. GIBBONS: There may be some confusion about that,
16 but in terms of these regulations, whatever stage they're at
17 now, we're going to be meeting with the Department of Forestry
18 about it.

19 SENATOR McCORQUODALE: Now, the other story that
20 we've gotten is that Mr. Sullivan was given the responsibility
21 to deal with this, and that his method of dealing with it was to
22 decide to let Forestry move ahead and do the licensing of
23 people.

24 MR. GIBBONS: No, no, no. That's not true.

25 SENATOR McCORQUODALE: That's an absolute not true?

26 MR. GIBBONS: The question is whether this particular
27 provision in the cleanup bill is going to stall the cleanup
28 aspects. And we would -- the items that were in the cleanup

1 legislation were of a technical matter, and we were simply
2 trying to get that out. And apparently CAPS had presented this
3 amendment fairly recently, and we did not want the legislation
4 stalled over that issue.

5
6 SENATOR MCCORQUODALE: Let me just read one thing,
7 and I'll complete my comments here. This is a letter from the
8 Licensing Department of the person of the Board of Forestry, and
9 he's talking about my bill, Senator Bill 1345, which as you say
10 is a cleanup bill dealing with a whole range of issues. And he
11 says:

12 "Specifically, Section 4 of the bill
13 as now written can be read to not
14 require Fish and Game biologists to
15 have a Forestry license when they
16 make recommendations about
17 harvesting of trees to provide for
18 wildlife habitat across the forest
19 landscape."

20 Now, is there any question in your mind the Board of
21 Forestry feels very confident that they have the authority to
22 license?

23 MR. GIBBONS: Well, certainly one staff member does.

24 SENATOR MCCORQUODALE: Well, this is the Executive
25 Officer of Forestry Licensing.

26 Have you had a conflict with that person in the past?

27 MR. GIBBONS: No, no, I have not.

28 SENATOR MCCORQUODALE: Did you win in a conflict with

1 that person?

2 He's telling me, and he's opposing my bill, you see.
3 The Board of Forestry is opposing my bill because of that
4 section in there.
5

6 Now, I've been told that the bill has problems, and
7 that's the only source of any opposition, the Board of Forestry.

8 MR. GIBBONS: I think we can straighten out whatever
9 confusion there is. On the merits of it, we didn't want to see
10 the rest of the legislation held up over a dispute over this
11 particular language.

12 But I don't believe the licensing authority applies
13 to the Fish and Game biologists. I'll certainly resist that.

14 SENATOR McCORQUODALE: Well, Mr. Chairman, I think
15 that completes the point I wanted to make.

16 I would hope that the Rules Committee would look
17 carefully at whether they feel that Mr. Gibbons really has the
18 force to carry out the responsibilities of this Department.
19 It's a very critical department in California. If you've read
20 from probably any paper you can pick up over a period of time,
21 the difficulties that wildlife and fish are having to survive in
22 California.

23 SENATOR CRAVEN: We appreciate your comments, Senator
24 McCorquodale.

25 It's entirely possible, of course, that Mr. Gibbons
26 may follow that old adage of Theodore Roosevelt, "Speak softly
27 and carry a big stick." He may not have shown his prowess to
28 this time.

1 SENATOR MCCORQUODALE: I felt better when he had a
2 few scars on him when he came in, I guess.

3 [Laughter.]

4 SENATOR CRAVEN: Very good.

5 MR. GIBBONS: These are fatigues. I wear them
6 underneath.

7 SENATOR CRAVEN: Senator Mello.

8 SENATOR MELLO: Before we go on, I think the issues
9 raised by Senator McCorquodale are pertinent.

10 I looked over here. Secretary Wheeler was here, who
11 is the head of your Department as well as the Forestry
12 Department. For some reason he left about five minutes ago.

13 It'd be nice if he were here to hear this interchange
14 of discussion, to hear from Senator McCorquodale and others.

15 I was wondering through the Chair if the Sergeant
16 could call Mr. Wheeler to see if he could come back and
17 participate here in the hearing this afternoon for Mr. Gibbons.
18 I think that is not an unreasonable request.

19 Rather than trying to have Mr. Gibbons trying to
20 settle the differences between two agencies within the umbrella
21 of Resources, I think Mr. Wheeler ought to be here to get the
22 message that he's coming up here, then let him bring everybody
23 together and try to come up with a solution.

24 SENATOR MCCORQUODALE: You know, it's really a
25 broader issue. I didn't try to give you all of it.

26 Let me give you one more example. The Department had
27 raised a million striped bass by buying them. They bought them
28

1 from private contractors. They were supposed to be put out for
2 mitigation during June, maybe even before, but anyway, by June.

3 They were paid for by the Department of Water
4 Resources. Water Resources determined that how Mr. Gibbons used
5 the striped bass didn't meet the requirement of mitigation.
6

7 Now, here's a Department that doesn't have the
8 responsibility. They're only supposed to pay for them because
9 their pumping created problems for striped bass.

10 Mr. Gibbons did it. He had about two weeks to pay
11 the people who were the private contractors before we ran into
12 the problem of registered warrants.

13 I still don't know for sure whether those folks ever
14 got their money, because they couldn't resolve the issue.
15 Nobody could over -- he wasn't able to overcome Department of
16 Water Resources.

17 So it is a critical issue, and it has far-reaching
18 ramifications about just the image of whether California has a
19 Department that's really fighting to protect the fisheries and
20 the wildlife and habitat in California.

21 Hopefully, they got those folks paid. I know that he
22 got the striped bass distributed, and I didn't have any
23 objection to how he distributed them, but evidently Water
24 Resources did.

25 MR. GIBBONS: Well, Senator, let me just say that the
26 objection wasn't just from the Department of Water Resources.
27 It was from the fisheries representatives as well on the
28 advisory committee, the Four Pumps Advisory Committee that

1 advises on mitigation. So, there was not agreement amongst the
2 group that advises on the use of mitigation money.

3
4 It was from -- all the parties could not reach
5 agreement; it wasn't just the Department of Water Resources
6 there.

7 SENATOR CRAVEN: May we go now to Senator Boatwright.

8 SENATOR BOATWRIGHT: Mr. Chairman and Members, I had
9 some real misgivings about this appointment, and I have
10 discussed several times those misgivings with the nominee as
11 Director of Fish and Game. And I still have some misgivings,
12 but I think the proof of the pudding is always in the eating.

13 I'm going to ask that Boyd Gibbons be given an
14 affirmative recommendation out of this Committee. I intend to
15 vote for him on the Floor.

16 I guess the action will be determined, right or
17 wrong, based upon his subsequent actions.

18 I think of myself as an environmentalist. I have
19 received -- the only Legislator to have received a certain award
20 from the Sierra Club.

21 In addition to that, I am a hunter, a fisherman. I
22 mean a real hunter; I hunt big game all over North America. A
23 lot of people don't like it, but I do. I don't know of any
24 other Legislator since Bill Richardson left that does that.

25 I don't think it's mutually inconsistent to be a
26 sportsman and also be an environmentalist. I think it goes
27 hand-in-hand. Without the environment, you don't have game; you
28 don't have migratory waterfowl.

1 So, I think he should be confirmed to see how he
2 acts.

3 But I am going to say this. California's migratory
4 waterfowl, California's game, has been in a steady decline. I
5 think a lot of that is attributable to the policies of the
6 Department of Fish and Game over the many last years. And I can
7 cite examples.

8 One example that certainly Senator McCorquodale and
9 Senator Petris are well aware of was my Senate Bill 1034, where
10 we established a fund to restore the Delta levees, and in that
11 bill we gave Fish and Game certain responsibilities with respect
12 to the preservation of the habitat on the levees, and things
13 like that.

14 For several years, the money was spent, and Fish and
15 Game never signed off on a single reclamation plan. And as a
16 consequence, they were doing the work during the nesting season
17 of the birds on the levees; they were destroying the levees. We
18 showed a film that you will recall that was taken where they
19 were scarifying the land, pushing fence posts and barbed wire,
20 pilings, and everything into the waterway and fouling the
21 waterway. And I have that, and I'll make it available to you.

22 We held up the money of that entire about \$150
23 million -- \$12 million or 15 million for a year, until we could
24 get a new bill out and a new agreement, a memorandum of
25 understanding, to get Fish and Game involved in doing the job
26 they're supposed to do.

27 So, I'm going to say this, and it's not a threat. I
28

1 think Senator McCorquodale will back me up.

2
3 As a Member of the Budget Committee, and as a Member
4 that did sit on his Subcommittee, now I'm Chairman of a State
5 Administration Subcommittee of the Budget, and Senator Petris is
6 on Budget and he's Chairman of Education, and I think I can
7 safely say that if you really don't carry out the functions, and
8 just good common sense will tell you what those are, to protect
9 fish and game, and do whatever's right for fish and game, I'm
10 going to do everything that I can to see that the entire
11 functions of Fish and Game are transferred to someone else.

12 We need to start doing that around here with other
13 departments. As a matter of fact, Senator McCorquodale, as
14 Chairman of a Subcommittee I appointed of Business and
15 Professions to do that with all the boards and commissions,
16 he'll hold a hearing this fall and have recommendations next
17 year to consolidate and eliminate some of these. And I think
18 it'll be adopted.

19 I can absolutely tell you, I will push for the
20 elimination of Fish and Game and the transfer of its functions
21 to some other department. If they're not going to do their job,
22 we might as well save money.

23 We have discussed this. I think Senator McCorquodale
24 will tell you that as Chairman of Natural Resources and Chairman
25 of that Subcommittee on the Budget, that you agree with that.

26 Is that true?

27 SENATOR MCCORQUODALE: That's true.

28 SENATOR BOATWRIGHT: So, that's not a threat, but if

1 you're not going to do your job, there's no use putting the
2 money into your job and into Fish and Game. We'll let someone
3 else do it.

4 So, I'm going to support your confirmation. I'm
5 going to vote for it. I think you deserve a chance; everyone
6 does.

7 But the proof of the pudding's in the eating. And if
8 you, as a Director, do your job, I'll go to the mat for you.
9 I'll fight every other department, anyone that I can, to make
10 sure that you do your job if you're willing to stand up and
11 fight for yourself.

12 So, that's what I want to tell this Committee. And
13 there's another sportsman here. Senator Mello is a very avid
14 fisherman. I think he feels very strongly about this, and a
15 hunter, too, a duck hunter.

16 But we feel strongly about this. I think we've had a
17 weak Fish and Game Department for a long time. And the proof is
18 that in 1034, they didn't do anything for several years.

19 So, I think you deserve a chance. I'm going to vote
20 for you. I'm going to support you, and I think that's the fair
21 way to do it. And then the ball is in your court.

22 MR. GIBBONS: Thank you, Senator.

23 SENATOR MELLO: Mr. Chairman.

24 SENATOR CRAVEN: Senator Mello.

25 SENATOR MELLO: May I respond to my dear friend and
26 colleague.

27 He made some very strong words there about this
28

1 Department, but let me just suggest that there is a different
2 alternative.

3 I was thinking, who do we abolish them and merge them
4 into? Like, if you put them into Forestry, boy, you're putting
5 the fox in with the chickens. If you put them to -- what other
6 departments are there out there?

7
8 SENATOR BOATWRIGHT: Parks and Recreation.

9 SENATOR MELLO: Let me suggest this --

10 SENATOR BOATWRIGHT: They do a pretty good job
11 protecting the environment.

12 SENATOR MELLO: I'd rather see us take a different
13 approach. You and Senator McCorquodale have this great power
14 with your subcommittees, and I commend you for what you're
15 doing.

16 But let's get this Department to work, be responsive
17 to the needs of California. To me, that's better because they
18 can focus on fish and game management a lot better than putting
19 them into a department that's going to have Fish and Game, and
20 Parks, or Forestry, or Aging, or Agriculture, whatever else you
21 want to do, that'll have these self-imposed conflicts, I think.

22 I would rather see Mr. Gibbons and Mr. Wheeler -- I
23 wish he was here to hear this, because he was here earlier --
24 but what I'd rather see this Department do, because I agree with
25 you, the resources have been going downhill. I mean, I've got
26 graph that shows resources going like this, and the fishing
27 licenses for fishing and game are going like that, and we are
28 picking up about 90 percent of the costs of running this

1 Department. That's why Senator Bergeson's resolution here
2 passed here earlier. People can enjoy the environment and see
3 wildlife, and see a lot of things, as long as we are paying for
4 it. The commercial section is paying for part of their
5 operation as well.
6

7 But I'd rather see us not put a conflict in with
8 merging this Department some other entity. I'd rather say to
9 Mr. Gibbons and Mr. Wheeler, "Look, we have to do better
10 resource management. We have to do more about the water uses.
11 We have to do more about protection of the habitat, the
12 wetlands, and the whole fishery management."

13 Then with your positions there, and your budget
14 department, lay it on the line. Let them do it, and if they
15 can't do it, then -- ah, Mr. Wheeler.

16 SENATOR MCCORQUODALE: Senator Mello --

17 SENATOR MELLO: May I just, with the permission of
18 the Committee, Mr. Wheeler, I saw you earlier, and I know your
19 busy engagements.

20 Some very important information came here that I do
21 not want to go back and repeat on, but I hope you can read the
22 transcript that'll be available here that reflects Senator
23 McCorquodale's concerns and Senator Boatwright about conflicts
24 that are coming up between the Department of Forestry and Fish
25 and Game. Because you are the boss. You're at the head of all
26 these agencies, and I think it's a very valid concern that we
27 all have.

28 We've been laying the blame on Mr. Gibbons here and

1 other people, but somehow I think you're part of the solution.
2 Hopefully, you can be here to hear the rest of this confirmation
3 hearing.

4 At least, Mr. Chairman, my point that I want to make
5 to Senator Boatwright, who I respect a lot, and Senator
6 McCorquodale, before we start transferring this Department into
7 somebody else, we ought to first look at laying more
8 responsibility on them, and helping them get their job done to
9 the best way we can.

10 SENATOR MCCORQUODALE: Senator Mello, I certainly
11 agree with that. I think that it's good to have an independent,
12 stand-alone Department, dealing with the issues that they deal
13 with.

14 I think that part of what Mr. Gibbons gets tired with
15 here is that -- is the sins of the past, as much as they are of
16 his. And that's why I think it was important for me to come
17 today and raise this issue with him, because I wanted him to
18 know that there is legislative support. There's public support
19 for him doing his work in this area. But there is a lot that
20 needs to be done.

21 I'll give you one more example of a problem that
22 existed. He can't be blamed for it because it happened about
23 the time he got here.

24 Among a lot of the lower ranking people, there is a
25 feeling among game wardens and others, biologists and others,
26 that there's not full Department support and Agency support for
27 their activities, even to the extent that when Caltrans dumped a
28

1 load of asphalt into a stream, that rather than go through the
2 process of sending it up through the channels and having it
3 dealt with administratively, the game warden felt his only
4 option was to go to the local district attorney and file a
5 lawsuit or file criminal charges against Caltrans in dealing
6 with it.

7
8 We don't -- we shouldn't operate that way. They
9 should have confidence that if they'd had sent that up to the
10 head of Fish and Game, that Fish and Game would have taken it to
11 whatever mediation process is available within the
12 administration to deal with it, and feeling that they could
13 have gotten successful resolution that would protect fish in
14 this case, but they didn't.

15 So, that's the challenge that he has, to be able to
16 do that. As Senator Boatwright said, I think he has the
17 training, the capability, the background, the interest, and
18 everything else. He needs to know that people are supporting --
19 supportive of him, and he needs to know that he has
20 administration support, and he needs to know that occasionally
21 he's got to battle some of these other departments, and if he
22 loses, he loses. But we've got to know that he's out there
23 fighting the battles that we would pick for him.

24 SENATOR BOATWRIGHT: The reason I said that about
25 that, if they're not doing their job, there's no use having any
26 department or agency in.

27 I think we're close on the Energy Department. I
28 think their life, for example, if they go another year it's

1 going to be pretty lucky. I think there's damn near unanimous
2 consent in all the people on the conference committee to abolish
3 the Energy Commission and transfer its siting functions to the
4 PUC.

5 So, if someone's not doing their job, why keep them
6 around? That's why I say that. You know, what the hell? If
7 it's just to spend money, we can all do that. Like, you know,
8 and we've made some pretty good strides: OPR's gone, OPA's
9 gone, the Mexican Affairs group is gone. And I think it's time
10 that government became efficient. I think the people out there
11 want us to spend our money more wisely.

12 So, I just -- I think he can do it, and you'll sure
13 get my support if you try. And if we have to fight Mr. Wheeler,
14 we'll do that, too, for you.

15 SENATOR CRAVEN: Well, would you like to hear
16 something favorable?

17 SENATOR BOATWRIGHT: That was all favorable.

18 SENATOR CRAVEN: Dan said that was all favorable.
19 You may need a translator to come up with that.

20 I'm sure that both Senators are very, very well-
21 intentioned. I have a feeling, too, that they've gone into this
22 situation quite well.

23 But my thought is that you may well be the spark that
24 ignites a new spirit of cooperation and understanding within the
25 Department and the Agency, and who's to say that that is not
26 correct.

27 So, we're all entitled to our opinions. I have found
28

1 that in dealing with people in your milieu, going back before I
2 was in state service and county service, we had trouble with
3 people agreeing within the various elements of Parks, and
4 Recreations, and this and that, and so forth, and so much of
5 what Senator McCorquodale said I've heard before in a different
6 setting with a different uniform on, but it was there
7 nonetheless. So, nothing is perfect, I suppose, except the
8 Members of the Rules Committee, who are now going to vote.
9

10 Any comment by the Members? We had testimony last
11 time Mr. Gibbons was with us. Unless you have any feeling that
12 we should have more, let's bring this to a vote.

13 SENATOR MELLO: Let me ask, is there anyone that has
14 any new information that might be part of this hearing? I don't
15 want to just open up the hearing.

16 I don't recall how we even left it, whether or not
17 the hearing was closed.

18 SENATOR CRAVEN: It appears that no one is reacting
19 to the inquiry of Senator Mello. Let us presume, then, that
20 there is no one who wishes to make any comment.

21 The Chair is ready to receive a motion.

22 SENATOR BEVERLY: I move we recommend confirmation.

23 SENATOR CRAVEN: Senator Beverly moves the
24 confirmation of Boyd H. Gibbons III, Director, Department of
25 Fish and Game.

26 Call the roll, please.

27 SECRETARY WEBB: Senator Beverly.

28 SENATOR BEVERLY: Aye.

1 SECRETARY WEBB: Beverly Aye.

2 Senator Mello.

3 SENATOR MELLO: Aye.

4 SECRETARY WEBB: Mello Aye.

5 Senator Petris.

6 SENATOR PETRIS: Aye.

7 SECRETARY WEBB: Petris Aye.

8 Senator Craven.

9 SENATOR CRAVEN: Aye.

10 SECRETARY WEBB: Craven Aye.

11 Senator Roberti.

12 Four to zero.

13 SENATOR CRAVEN: Four-zero; congratulations and thank
14 you.

15 MR. GIBBONS: Thank you very much, all Members of the
16 Committee.

17 [Thereupon the final vote for
18 confirmation was 5-0, as Senator
19 Roberti's aye vote was added
20 pursuant to Senate Rule 28.7]

21 SENATOR BEVERLY: Mr. Chairman, may the record show
22 that Secretary Wheeler's here. There was a request that he
23 appear. He was summoned, I gather. He's not in shackles; he's
24 not under subpoena, but he's here.

25 SENATOR CRAVEN: You're here of your own volition.
26 Nice to have you with us.

27 SECRETARY WHEELER: Thank you.
28

1 SENATOR CRAVEN: We appreciate your presence.

2 All right, let's go back to Item 1, Governor's
3 appointees, David M. Caffrey, Member, Public Employment
4 Relations Board. Mr. Caffrey was with us before. We voted, as
5 I recall, favorably, and then Senator Petris asked that we put
6 the matter over because of certain information that he had
7 either received or was seeking. That's why this gentleman is
8 back before us again.

9 Senator Petris.

10 SENATOR PETRIS: Mr. Chairman, I had a talk with
11 Mr. Caffrey, and he answered the questions I had. So, I'm ready
12 to go.

13 SENATOR CRAVEN: Very well.

14 MS. MICHEL: You rescinded the action that you took
15 and put it over.

16 SENATOR CRAVEN: Then we're ready for a motion.

17 MS. MICHEL: Senator Petris had made the motion last
18 week.

19 SENATOR PETRIS: Move.

20 SENATOR CRAVEN: Senator Petris has moved the
21 confirmation of David M. Caffrey, Member, Public Employment
22 Relations Board.

23 Call the roll.

24 SECRETARY WEBB: Senator Beverly.

25 SENATOR BEVERLY: Aye.

26 SECRETARY WEBB: Beverly Aye.

27 Senator Mello.

1 SENATOR MELLO: Aye.

2 SECRETARY WEBB: Mello Aye.

3 Senator Petris.

4 SENATOR PETRIS: Aye.

5 SECRETARY WEBB: Petris Aye.

6 Senator Craven.

7 SENATOR CRAVEN: Aye.

8 SECRETARY WEBB: Craven Aye.

9 Senator Roberti.

10 Four to zero.

11 SENATOR CRAVEN: Very good. Congratulations,
12 Mr. Caffrey, and thank you very much for coming back.

13 MR. CAFFREY: Thank you.

14 [Thereupon the final vote for
15 confirmation was 5-0, as Senator
16 Roberti's aye vote was added
17 pursuant to Senate Rule 28.7]

18 SENATOR CRAVEN: Next we have A. Vernon Conrad,
19 Member, California Regional Water Quality Control Board, Central
20 Valley Region.

21 The Supervisor's been with us before, as I recall.
22 We had a two-two vote on it, then what did we do?

23 SECRETARY WEBB: We announced the vote, and then
24 reconsideration was granted.

25 SENATOR CRAVEN: There are people who wish to testify
26 in this case.

27 First of all, thank you for coming back again.
28

1 We have a person who wishes to testify on this matter
2 before us, on Mr. Conrad, John Krebs. Mr. Krebs, as I
3 understand, is a former Supervisor, Fresno County.
4

5 MR. KREBS: Thank you, Mr. Chairman, Members of the
6 Board, of the Committee.

7 My name is John Krebs, and let me state at the outset
8 that I did not cherish the task of appearing here in opposition
9 to the nomination of Supervisor Craven [sic].

10 SENATOR CRAVEN: There was a Supervisor Craven.

11 MR. KREBS: Excuse me, I served with Mr. Craven, so
12 excuse my slip here.

13 I came here as a private citizen, a person who served
14 for five years on the Fresno County Board of Supervisors, and
15 for four years in the House of Representatives. And as such,
16 I believe I have established records on the environment which,
17 frankly, show concern for the environment, and that's the reason
18 why I'm here today.

19 As I said, it is not a pleasant task to oppose
20 Mr. Conrad. I've had a pleasant relationship with Mr. Conrad.
21 We did not serve on the Board at the same time. Mr. Conrad was
22 elected to the Board after I was elected to the House of
23 Representatives. And as I said, my reasons for being here are
24 strictly from the standpoint of a citizen who, frankly, feel
25 that the appointment of Mr. Conrad to this particular Board
26 would be inappropriate.

27 I am saying this because I am naive enough to feel
28 that a person who seeks appointment to a Water Quality Control

1 Board, and I happen to think that water in this state ranks in
2 importance with the economy and with crime -- as a matter of
3 fact, I believe a case can be made that unless we do something
4 about the problems facing California as far as the water supply
5 is concerned and the quality of water, our economy is going to
6 go down rather than, as all of us hope, ultimately go up.

7
8 With this in mind, let me tell you why I'm opposing
9 Mr. Conrad's nomination.

10 Mr. Conrad, in his ten years on the Board of
11 Supervisors, has established a record of a person who simply
12 does not seem to feel that a concern for the environment is
13 something that a member of the Board of Supervisors should be
14 aware of. The record, I believe, is clear that Mr. Conrad, and
15 I regret to put it in these terms, that Mr. Conrad, based on my
16 observations, has never seen a development that he did not like,
17 unless it happened to be in his district where opposition
18 exists. When it comes to any other Supervisorial district,
19 anything goes.

20 We have had numerous instances of approval by the
21 Board of Supervisors, with Mr. Conrad voting in the affirmative,
22 of developments, leapfrog subdivisions, without adequate water
23 and without adequate sewage provisions, without adequate EIRs.
24 I can cite you examples. The most recent one, probably the most
25 blatant in recent times, and I can cite you additional examples.
26 In all candor, they probably won't mean anything to you,
27 understandably so.

28 The most blatant one was a development, proposed

1 development, of the Ball Ranch. The Ball Ranch is in the San
2 Joaquin River flood plain. It was strenuously opposed, not
3 only by the staff, but it was opposed by what is known as the
4 San Joaquin River Committee. It is -- the committee represents
5 a broad section of the population in Fresno in its attempt, and
6 it's not an easy task, to develop a parkway along the San
7 Joaquin River.

8
9 The development that was proposed by those who
10 purchased, or at least conditionally purchased, the property
11 from the Ball family, involved in excess of 900 units. It
12 finally was approved recently, within the last three weeks, on a
13 four-to-one vote, with Mr. Conrad voting in the affirmative,
14 with 75 units.

15 Mr. Conrad was willing from the beginning to approve
16 what would have been really a death blow to any attempt to
17 develop the San Joaquin Parkway.

18 Mr. Conrad has consistently opposed the formation of
19 a San Joaquin Regional Air Control -- Air Pollution Control
20 Board under the legislation of your colleague, Senator
21 McCorquodale. It is my understanding that Fresno County is in
22 violation of Senate Bill 124, which deals with that particular
23 district. I understand that a hearing will be heard for the
24 purpose of deciding whether sanctions should be imposed within
25 the next day or so.

26 Mr. Conrad has made it clear that his philosophy on
27 water development in California is in or has been consistent
28 with opposition to any attempts to reform the reclamation laws.

1
2
3 And Mr. Conrad is of the opinion that the United
4 States government should sign 40-year contracts with farmers in
5 the San Joaquin Valley, despite the fact that we are about to
6 undergo some very serious population changes in the State of
7 California. And I cannot believe that anybody representing an
8 urban district, let alone a district in areas like the Los
9 Angeles Basin, the Bay Area, would not be concerned about
10 individuals who have never contributed a dime to the development
11 of water resources, being able to sign 40-year contracts.

12 I know your time is short, and I wish to apologize
13 for the time that I already took, and I probably spoke longer
14 than I did [sic].

15 I wish to thank you for the opportunity of having
16 appeared before you. I'm now open to any questions which you
17 might have.

18 Let me reiterate in closing, as I stated at the
19 outset, that this is not a pleasant task. If Mr. Conrad was up
20 for appointment for certain agricultural committees, which did
21 not involve air or water, I would be more than happy to support
22 him.

23 I certainly bear no animosity to Mr. Conrad. I was
24 never involved in any of his campaigns, and to my knowledge, he
25 was never involved in any of my campaigns.

26 I'm doing it strictly because of my deep concern for
27 the environment.

28 SENATOR CRAVEN: Very well, thank you very much.

1 MR. KREBS: Thank you.

2 SENATOR CRAVEN: Any Member of the Committee wish to
3 speak to that witness on any of his points?
4

5 We'll give you, Supervisor Conrad, an opportunity to
6 rebut at the conclusion of the testimony.

7 Yes, ma'am. You have some comment to make? If you
8 will come forward and state your name.

9 MS. SADLER: My name is Lynn Sadler. I'm with the
10 Planning and Conservation League.

11 We've been receiving a number of FAXes from the
12 groups that we deal with in the area that he currently serves,
13 asking us to urge you to strongly oppose his confirmation.

14 It can basically be summed up, as one person said,
15 he's indicated in the past that he believes CEQA should be
16 abolished, and then he proceeds to vote as if it already had
17 been.

18 We are in strong opposition to his confirmation and
19 ask that you oppose it as well.

20 SENATOR CRAVEN: Thank you very much.

21 Yes, sir.

22 MR. PAPARIAN: Mr. Chairman, Members, Mike Paparian,
23 representing the Sierra Club.

24 On behalf of our local chapter, which covers the
25 region, we strongly oppose this nomination.

26 And also, based on some of the information that
27 you've heard today and at your last hearing, I think it's very
28 clear that we don't have a balance in this appointment. We have

1 extremism when it comes to environmental issues, which would not
2 be appropriate on this Regional Water Board.

3 SENATOR CRAVEN: Thank you, Mr. Paparian.

4 Anyone else? Any Members of the Committee?

5 Mr. Conrad, please.

6 MR. CONRAD: Mr. Chairman, fellow Senators, it almost
7 takes me by surprise when people make statements of what I
8 believe and what I don't believe. And I take strong issue with
9 that.

10 I have never made any effort or suggested that CEQA
11 not be enforced. It is my belief that before any body that has
12 a regulatory role should have all of the information brought
13 before it before that -- decisions are made. I have supported
14 that. I have supported it strongly.

15 Now, maybe I have not supported the direction that
16 some folks would like to have been supported. I'd like to talk
17 a little bit about the Ball Ranch.

18 The Ball Ranch is a rather large mined out area along
19 the San Joaquin River between Friant and Fresno. It was mined
20 out in the period of time that was not -- we didn't have laws
21 that required reclamation of that land.

22 This project that was brought forward was a golf
23 course with a number of housing units. It was -- part of this
24 was in the flood plain. Like Mr. Krebs stated, it was all in
25 the flood plain, that is not correct.

26 Through some negotiations and, I believe, Assemblyman
27 Costa has been a strong supporter of the parkway along the
28

1 River, of which if you want to go back and check my records,
2 that I have supported that as well. It's on the record.

3 Maybe one way of attaining it would be to do one
4 direction; another way of attaining it would go another
5 direction.

6 It's been my strong feeling that in order to attain
7 it, we could not utilize public monies to buy the land because
8 we don't have public monies. But if it is developed, the
9 property can then, or a certain segment of that property, can be
10 required of the developer.

11 The developer did offer a large portion of the land
12 along the River. He offered to maintain it in perpetuity, grant
13 public access, and provide fencing, and so forth, that the --
14 that would be required to have that as a segment of the parkway.
15 I supported that.

16 Along with that, then the developer would have had --
17 in order to get something out of it, would have had to have
18 gotten development rights. That was turned down.

19 So then the developer, working with various
20 governmental agencies, sold them the land that he would have
21 given them, and sold them all the environmentally sensitive land
22 in that project. Then he came to the Board with environmental
23 -- the most inclusive environmental impact statement that I have
24 seen in the ten years that I have been on the Board. Ream after
25 ream of paper from qualified people, providing all of the
26 information as to how the environment was to be affected, the
27 mitigation measures, and all of those things put together was,
28

1 in my opinion, that a golf course along in that stretch of the
2 bottom of the River, not in the flood plain, would be
3 complementary to the parkway. In fact, the parkway even
4 suggests -- the parkway plan even suggests golf courses be
5 built.

6
7 The real issue in this program was that the City of
8 Fresno opposed it strongly. And the County and the City are not
9 always on the same wave length in our feelings, right or wrong.
10 I think in the reference to this same project earlier, it was
11 without -- reference was made it didn't have adequate water; it
12 didn't have adequate sewage. That is totally untrue.

13 The requirements for this unit is to have tertiary
14 treated sewage. The sewage will be utilized on the golf course,
15 and there is adequate water.

16 Now, I can go on for a long time and address all of
17 these issues that have been brought forth, but I want to assure
18 you, all of you Senators, that I believe -- I am a farmer, and I
19 live by the environment. My livelihood is dependent upon the
20 environment. I have been a hunter; I've been a fisherman all my
21 life. And I know that we cannot depreciate that resource and
22 still have a good quality of life in this area.

23 Now, there are different ways of achieving goals, and
24 my way may not be exactly the same way as some others, but I
25 want to assure you that I am very concerned about the
26 environment. I was the first one on the Board of Supervisors in
27 Fresno County that embraced vehicle -- testing of the vehicles
28 for smog.

1
2 And my ex-colleague here says that I was opposed to
3 the air district. That is not the case. I am not opposed to an
4 air district, and I have supported it. Being a farmer, I know
5 what the depreciation of the air quality does, and quality of
6 product that I raise. I know what it does to the health of
7 people.

8 And I resent people coming and saying that I have
9 done things that I have not done.

10 I have done some things that I -- like all people, I
11 have made mistakes. But I have not made the mistakes that have
12 been brought before you today.

13 Thank you.

14 SENATOR CRAVEN: Fine, thank you.

15 Any comments? Senator Mello.

16 SENATOR MELLO: Question regarding your recent
17 statement about your strong support of the environment.

18 I want to go back to the quote that was said before,
19 and I think what you're saying now is in conflict, at least what
20 you said before, the quote taken from Page 13 of the official
21 records of the hearing of the Board on which you serve quotes
22 you, it says:

23 "Well, Mr. Chairman, I'm going to
24 second that motion. And I think
25 this matter of requiring an EIR is
26 fine if you want to hassle people,
27 create as much problems for them as
28 you possibly can. I think that's

1 one way of doing it. I think it's
2 used almost on every project with
3 that purpose in mind."

4 MR. CONRAD: Can I comment on that, sir?

5 SENATOR MELLO: This is a quote.

6 MR. CONRAD: I said that. I admitted that I said
7 that.

8 It was taken out of context. It was on an issue that
9 we had reams of environmental investigation.

10 SENATOR MELLO: Hold it. Let me ask you a question.

11 Is this statement taken out of context, or is this
12 your direct quote?

13 MR. CONRAD: That is a direct quote. What I'm
14 talking about is what happened before that and after that.

15 There was a great deal of environmental investigation
16 had gone forth. There were a lot of other very similar projects
17 in similar areas.

18 One way, if you want to kill projects, one way is to
19 just continue to file lawsuits and complain that your
20 environmental investigation is not adequate. Now, who's to say
21 whether it's adequate or not until a judge makes a decision.

22 I believe the California Environmental Quality Act
23 puts the burden on the agency that is making that decision as to
24 determine whether it's adequate or not. If they determine it's
25 adequate, then it depends upon the court. If the court says
26 that they made a mistake, they can rule otherwise.

27 But otherwise, that determination is made by the body
28

1 that has the responsibility, in this case the Board of
2 Supervisors.

3 SENATOR MELLO: Well, I think, it just happened I
4 served eight years on a Board of Supervisors, too.

5 The California Environmental Quality Act was, is
6 there, and it provides that the local agency can make a negative
7 declaration. In other words, you don't find any social or
8 economic impacts. That sets the procedure. That can be
9 challenged, but at least you have that option.

10 Secondly, if there is social and economic impact from
11 a project, then you have mitigation measures to mitigate these,
12 and then the final decision rests with the Board.

13 Now, if you haven't followed due process, or if
14 you've made mitigation measures that are not relevant to the
15 impacts stated by the environmental impact report, then that can
16 be further contested in court.

17 But I think the burden of proof is strictly on those
18 that are protesting a project, because they have to prove, and
19 you have the Board, the governing board that you served on, has
20 all the options of negative declaration, mitigation measures,
21 and findings. And then, when you make the final findings,
22 there's, I think, a 45-day window before it becomes final.

23 But going back to that one sentence,

24 "I think this matter of requiring
25 an EIR is fine if you want to
26 hassle people"

27 Well, to me that's --
28

1 MR. CONRAD: My intent in that matter of requiring an
2 EIR in this particular -- in that particular project would have
3 strictly been a hassle. We had gone through the environmental
4 investigation stage of it. We had done that. And these folks
5 came and were demanding that we do an EIR.

6 It was a difference of opinion as to whether the
7 environmental investigation was adequate or not.

8 SENATOR MELLO: The EIR, as I understand it, is
9 required unless you make a negative declaration.

10 MR. CONRAD: We made a negative declaration. That's
11 the point. And that was not -- it did not satisfy those folks.

12 SENATOR MELLO: Have you ever asked your Legislators
13 to amend or repeal or modify the California Environmental
14 Quality Act?

15 MR. CONRAD: No, sir, I have not. And I don't
16 believe -- I believe it's a pretty good act.

17 As I said earlier, I think what Mr. Krebs said in his
18 opening remarks were almost identical to the remarks that I made
19 in my opening remarks.

20 SENATOR MELLO: The reason I brought this up is, you
21 made some positive statements there about you being a farmer,
22 and a strong environmentalist, and so forth.

23 When you go back and re-read this one sentence, it
24 sort of conflicts with your stated position just made recently.

25 MR. CONRAD: I'm sure, Senator, that, you know, all
26 of us, if you could go back and take something out of context
27 that we've said, you can make it say almost anything.
28

1 But I want to assure you that I have no concern about
2 the California Environmental Quality Act, and it's the way that
3 it's --

4
5 SENATOR MELLO: Let me ask you another question.

6 When there's a Board hearing, the clerk of the Board
7 takes minutes?

8 MR. CONRAD: Yes.

9 SENATOR MELLO: Then at a subsequent meeting, the
10 matter on the agenda is the approval of the minutes taken at the
11 previous meeting; is that correct?

12 MR. CONRAD: Not at our Board meetings.

13 SENATOR MELLO: How do you approve the minutes?

14 MR. CONRAD: We don't.

15 SENATOR MELLO: You don't approve them?

16 MR. CONRAD: No.

17 SENATOR MELLO: I don't know, it varies from board to
18 board, then. On our board, we were sort of behind times, but --

19 MR. CONRAD: That's Roberts Rules of Order, but we
20 don't.

21 SENATOR MELLO: What we did, the hearing was all
22 transcribed, and then the clerk of the Board typed up minutes
23 that we were given copies of with our agenda, and we looked them
24 over, and if there were any errors or omissions, then that was
25 brought up during that agenda item, approval of the previous
26 meeting's minutes. And if there were errors, we corrected them.

27 The reason I'm asking, I'm wondering whether or not
28 you asked this to be corrected. But, I guess, if you don't

1 approve the minutes --

2 MR. CONRAD: I'm not saying that it was an error,
3 Senator.

4 I said that, and I said that in that context.

5 SENATOR MELLO: Thank you.

6 SENATOR CRAVEN: Thank you.

7 We've heard testimony, actually two times, so I think
8 we've had enough statement by Supervisor Conrad.

9 I think we're ready for a vote. Do I hear a motion?

10 SENATOR BEVERLY: I move we recommend confirmation.

11 SENATOR CRAVEN: Senator Beverly moves --

12 SENATOR MELLO: Substitute motion.

13 SENATOR CRAVEN: State your motion, please.

14 SENATOR MELLO: Substitute motion would be that we
15 delay Mr. Conrad's hearing until the Rules Committee hearing to
16 be held in December, when we come back in session.

17 SENATOR CRAVEN: Which would be around the 5th of
18 December?

19 SENATOR MELLO: It's the first week. When do we come
20 back?

21 MR. BERG: The first Monday in December.

22 SENATOR CRAVEN: As I recall, Mr. Conrad would fall
23 within that time parameter, would he not?

24 MS. MICHEL: We have until the 30th of December.

25 SENATOR CRAVEN: All right.

26 Well, we've heard the motion, the substitute motion,
27 of Senator Mello. Let's call the roll on that.
28

1 SENATOR BEVERLY: Let me inquire first.

2 SENATOR CRAVEN: Yes, Senator Beverly.

3 SENATOR BEVERLY: When the Rules Committee meets in
4 December, I assume it'll be a new Rules Committee, a new Senate,
5 new session.

6 Am I correct?

7 MR. BERG: I'm not anticipating any changes in the
8 Rules Committee, no.

9 SENATOR BEVERLY: Just as a matter of legality, can
10 we do that? Do we have to start all over again?

11 We can't carry a bill over into the next --

12 MR. BERG: Actually, the Senate Rules Committee
13 carries over.

14 MS. MICHEL: And appointees are not determined by a
15 legislative calendar. It's the yearly calendar of their 365
16 days.

17 We have carried people over in the past.

18 SENATOR CRAVEN: So, what you're saying in connection
19 with what Senator Beverly said is that there would be no
20 impediment to what Senator Mello's substitute motion has --

21 MS. MICHEL: Not from past experience, sir.

22 SENATOR CRAVEN: Okay, very good.

23 Senator Beverly, did you move?

24 SENATOR BEVERLY: I made the original motion.

25 SENATOR CRAVEN: You did, the original motion, then
26 the substitute motion by Senator Mello.

27 Call the roll.
28

1 SENATOR MELLO: This is on the substitute motion.

2 SENATOR CRAVEN: Right.

3 SECRETARY WEBB: Senator Beverly. Senator Mello.

4 SENATOR MELLO: Aye.

5 SECRETARY WEBB: Mello Aye.

6 Senator Petris.

7 SENATOR PETRIS: Aye.

8 SECRETARY WEBB: Petris Aye.

9 Senator Craven.

10 SENATOR CRAVEN: No.

11 SECRETARY WEBB: Craven No.

12 Senator Roberti.

13 Two to one.

14 SENATOR BEVERLY: Move a call.

15 SENATOR CRAVEN: Senator Beverly moves a call.

16 MS. MICHEL: Just so you understand, Senator Roberti
17 will be unable to come in today because of budget negotiations.

18 SENATOR BEVERLY: That's one reason I made the
19 motion to move the call.

20 SENATOR MELLO: I move the call be taken up right
21 now.

22 SENATOR BEVERLY: We have other business to be taken
23 up.

24 SENATOR CRAVEN: Yes, we have.

25 SENATOR MELLO: We're not announcing the vote, then;
26 right?

27 SENATOR CRAVEN: No.
28

1
2 SENATOR MELLO: I'd like to withdraw my motion, then,
3 and we go back to the main motion.

4 SENATOR BEVERLY: Wait a minute. We were in the
5 middle of a roll call, and there's been a call.

6 SENATOR CRAVEN: I don't know that we can do what
7 you're suggesting, Henry. I think your call on this item will
8 take precedence.

9 SENATOR MELLO: Listen, in this business you have to
10 act one way or the other. Now, if you want to postpone this
11 motion that I made, he'll be taken up in December. If you don't
12 want to postpone it, then Senator Beverly's motion is before the
13 House.

14 SENATOR BEVERLY: I want to think about it for a
15 moment.

16 SENATOR MELLO: Okay.

17 SENATOR BEVERLY: Is that a courtesy, to let me think
18 about it?

19 SENATOR MELLO: Go ahead, think about it.

20 SENATOR BEVERLY: I think we're taking action
21 immediately, just moving the man's confirmation off to December.

22 SENATOR CRAVEN: I'm going to have this letter of
23 Dirk Poeschel, which is very laudatory of Mr. Conrad, put in the
24 record. The letter speaks highly of his abilities, as well as
25 rebutting testimony heard by this Committee at a prior time.

26 We'll take a break. Let's take ten.

27 [Thereupon a brief recess was taken.]

28 SENATOR CRAVEN: Let's go back in session.

1 SENATOR BEVERLY: Mr. Chairman, I'd like to lift the
2 call on the Conrad motion.

3 SENATOR CRAVEN: Very well.

4 Call the roll.

5 SECRETARY WEBB: Senator Beverly.

6 SENATOR BEVERLY: Aye.

7 SECRETARY WEBB: Beverly Aye.

8 Senator Roberti.

9 Three to one.

10 SENATOR CRAVEN: Three to one, so Senator Mello's
11 motion carried.

12 SECRETARY WEBB: To consider him in December.

13 SENATOR CRAVEN: So the end result of that is that
14 the matter's carried over until the first week in December. I
15 can't give you the date, but I think that's what it is.

16 MS. MICHEL: Whenever Rules meets in December.

17 SENATOR CRAVEN: Yes, whenever we meet, very good.
18 Hopefully, we're not still working on the budget at that time.

19 Number four, this is Eileen E. Padberg, who's a
20 Member of the Commission on the Status of Women, Governor's
21 appointee.

22 Ms. Padberg, please come forward and tell us why you
23 feel you're qualified for this appointment.

24 MS. PADBERG: Good afternoon, Mr. Chairman and
25 Members of the Senate Rules Committee.

26 I'm Eileen Padberg. A couple of you here know me.
27 It's nice to see old friends. I haven't been here in the State
28

1 Capitol in many years.

2 SENATOR CRAVEN: It hasn't changed an awful lot.

3 MS. PADBERG: No, it hasn't; you're right.

4 I'm here today, ironically, on Women's Equality Day,
5 to ask for your support for my confirmation for the Commission
6 on the Status of Women.

7 I am President of Eileen Padberg Consulting, which is
8 an organization that runs campaigns, and does a lot of
9 political-corporate communications.

10 I have worked on behalf of women since 1974 or '75 --
11 it's been so long, I don't know -- both on the issues,
12 obviously, of women's equality, Equal Rights Amendment, the
13 issues of choice, and various other issues that affect women,
14 children, and the issues that affect pay equity.

15 I'd like to ask for your support. I think that
16 certainly I can serve honorably on the Commission. I was
17 honored by the Governor to have been asked.

18 If you have any questions, I'd be glad to answer
19 them.

20 SENATOR CRAVEN: Well, let me ask. Senator Mello,
21 have you any questions at this time?

22 SENATOR MELLO: I was just reading the file. It says
23 that Congressman Dornan wanted to come here. I guess he's not
24 going to be here.

25 MS. PADBERG: It's unfortunate.

26 [Laughter.]

27 SENATOR CRAVEN: Thank you, Henry, for that bit of
28

1 information.

2 SENATOR MELLO: I'm just reading from the file here:
3 "I request to be there to testify."
4

5 SENATOR CRAVEN: Well, his plane probably was
6 delayed, or something.

7 Senator Lockyer is here, and he would like to say a
8 few words.

9 SENATOR LOCKYER: I'm sure it was a B-1 bomber that
10 we're awaiting.

11 [Laughter.]

12 SENATOR LOCKYER: Thank you, Mr. Chair and Members.

13 I've known Ms. Padberg for approximately 15 years.
14 As most of us will recall, she lobbied for the Orange County
15 Public Employees for a time, and I think all of us found her to
16 be an aggressive and effective person in that capacity.

17 For many years, she's been a campaign manager, and
18 I've had numerous opportunities to debate and discuss campaigns,
19 generally ones about which I was on the other side, but learned
20 and found her to be an intelligent person, and effective, and
21 committed.

22 All of that time, all of those years, I observed a
23 commitment that was consistent to equal treatment for women, and
24 it seems to me most appropriate and fitting that the Governor
25 nominate her for service on the Commission on the Status of
26 Women.

27 I would urge you to confirm the nomination.

28 SENATOR CRAVEN: Very good, thank you very much,

1 Senator Lockyer.

2 Now I understand, Ms. Padberg, that you have some
3 people in the audience who'd like to testify?
4

5 MS. PADBERG: Yes.

6 SENATOR CRAVEN: First, Judy Ryan, who is a candidate
7 for office, I guess, in the 46th Congressional District.

8 Is that right?

9 MS. RYAN: Good afternoon, Mr. Chairman and honorable
10 Members.

11 My name is Judith Ryan. I'm a retired Superior Court
12 Judge from Orange County, and I am here in support of Eileen
13 because I think, in part, she's here because of me.

14 I did run for congressional office. I ran in the
15 primary against Congressman Dornan. And at the time I
16 announced, and Eileen announced that she was going to support
17 and be my consultant, she was hit with a barrage of attacks.

18 I have known Eileen for approximately ten years,
19 primarily by reputation, and really until the campaign, had not
20 had the opportunity to work with her. And I found that
21 everything that I had heard by reputation was true.

22 She is known not only within the County, within the
23 state, but nationwide, and enjoys a reputation. Not only is she
24 well liked, but I think more importantly, she is well respected.
25 She's known for her intelligence and her integrity.

26 She is not afraid to speak out on issues involving
27 not only women, but other issues, I think, that are pertinent.

28 I would urge you, despite if it was a transgression

1 to act as my consultant, to consider her qualifications and her
2 past service to government, and urge her re-appointment to this
3 Commission.

4 I thank you for the opportunity of speaking.

5 SENATOR CRAVEN: Thank you very much for being here.

6 Next is Karen Peters.

7 MS. PETERS: Thank you much, Mr. Chairman and
8 honorable Members of the Senate Rules Committee.

9 My name is Karen Peters, and I'm here as an
10 individual as well as representative of the County of Orange --
11 Orange County NOW, National Organization for Women.

12 I've known Eileen since the early '70s, when we
13 worked on issues such as pay equity, on the Equal Rights
14 Amendment, and on the woman's right to choose. We have been
15 friends and partners in trying to change the face of America to
16 make sure that women get and receive the recognition that they
17 deserve.

18 She has been a staunch supporter of women's rights
19 and also an advocate. I worked with her as my capacity as the
20 Treasurer of ERA Orange County. I have also worked with her in
21 my capacity as past President of California National
22 Organization for Women.

23 Our most recent campaign together was for a
24 pro-choice Republican candidate, Judy Ryan. I must say that
25 throughout that campaign, and I happen to be a registered
26 Democrat, we supported a woman who was a good candidate and who
27 believed in women's rights, and was an advocate for all of us.
28

1 Eileen's personal ethics are above reproach, even
2 when she has been severely baited by the opposition. She has
3 kept a clear head at all times, and she has never allowed
4 pettiness to come -- become a mode of operation in any campaign
5 that I've worked with her on.
6

7 She treats people with dignity and respect, and thus
8 has gained the loyalty of everyone who knows her. I truly
9 admire and respect Eileen Padberg as a person, as a woman, and
10 as a friend.

11 I can truly say that with a person like Eileen
12 Padberg on your side, you do not have to worry about covering
13 your flank or covering your rear. You can go forward with your
14 action plan.

15 I heartily recommend that Eileen be confirmed as a
16 member of the State Commission on the Status of Women. She will
17 be a very worthy representative of women in this state.

18 Thank you very much for the opportunity to testify on
19 her behalf.

20 SENATOR CRAVEN: Thank you, Ms. Peters, very much.

21 We have your letter, which will be put as part of the
22 record. I have also one from the Department of Commerce,
23 addressed to our Chairman, David Roberti, from Julie Meier
24 Wright, and that will also be inserted into the record.

25 Next we have Debora Hintz, H-i-n-t-z.

26 MS. HINTZ: Thank you, Mr. Chairman, Committee
27 Members.

28 My name is Debora Hintz. I own a couple of companies

1 in Orange County. I'm also here representing the National
2 Association of Women Business Owners and National Women's
3 Political Caucus in Orange County.
4

5 Not only personally, but representing hundreds of
6 women, we all admire and respect Eileen Padberg. Many women
7 look to her as a role model, and we feel that there is no one
8 more deserving for this position on this Commission.

9 SENATOR CRAVEN: National Association for --

10 MS. HINTZ: Women Business Owners.

11 SENATOR CRAVEN: Oh, Business Owners is part of that
12 title?

13 MS. HINTZ: Yes, that's another. I happen to be the
14 Chair of their Government and International Affairs Committee.

15 SENATOR CRAVEN: Very good.

16 MS. HINTZ: So, thank you.

17 SENATOR CRAVEN: You're entirely welcome. Thank you
18 for testifying.

19 Next, Bob Nelson, President of Nelson Communications.

20 MR. NELSON: Mr. Chairman, thank you, and Members of
21 the Committee.

22 My name is Robert Nelson. I am the Chairman of a
23 company with offices in six cities, including three offices in
24 this state.

25 It's been my distinct honor to know Ms. Padberg for
26 21 years. During that time, I've known her to be a person of
27 integrity. I think most important relative to this Commission
28 appointment is, she's a person of very strong traditional

1 American family values. Those values being: hard work,
2 honesty, and a sense of equality.

3 I would just say to you that I think that one of the
4 most outstanding aspects of her public life has been not that
5 she seeks special preference for women, but rather that she
6 seeks that they attain a position of full equality in our
7 society.

8 I urge your recommendation of her.

9 SENATOR CRAVEN: Thank you very much.

10 Next, I guess we go back to Ms. Padberg. Do you have
11 anything further to say?

12 MS. PADBERG: I don't, unless you have any questions.

13 SENATOR CRAVEN: Do the Members have any questions?

14 Is there anyone who wishes to speak in favor or
15 opposition? Come, dear.

16 MS. CARPENTER: Aleta Carpenter. I'm not
17 representing any client today.

18 I just wanted to let you know that as a woman in
19 California, there's no one I'd rather have representing me.

20 I seek your favorable vote.

21 SENATOR CRAVEN: Very good, thank you very much.

22 MS. PADBERG: I feel like "This Is Your Life."

23 [Laughter.]

24 SENATOR CRAVEN: Anyone else who wishes to speak?
25 We're sorry that the Congressman couldn't make it.

26 [Laughter.]

27 SENATOR CRAVEN: Did he advise us that he was coming?
28

1 MS. MICHEL: He was the one who requested the hearing
2 to begin with. He's the person that asked that we have her
3 appear.

4 SENATOR CRAVEN: Oh, really?

5 He was really very anxious to see you.

6 SENATOR PETRIS: Mr. Chairman.

7 SENATOR CRAVEN: Yes, Senator Petris.

8 SENATOR PETRIS: I have a New York Times article that
9 I referred to earlier, and it's truly a very, very serious
10 matter. We kind of laughed it off, and you had indicated, well,
11 there are no Robertson people here, which I'm happy to note.

12 But I think that women who are taking the lead in the
13 fight for women's rights, whether it's through the Equal Rights
14 Amendment, or Status of Women Commission, or so forth, are going
15 to be under severe attack from certain quarters. I just wanted
16 to alert the women who are here and testified that they ought to
17 be aware of this.

18 If you'd care to comment, okay, but I'm not asking
19 you to do so.

20 It says, "A Letter from Pat Robertson Regarding the
21 Equal Rights Amendment" in Iowa, the Equal Rights Amendment to
22 the Iowa Constitution. It's dated August 25th. He sent the
23 letter to supports of an evangelical Christian coalition,
24 describing it as:

25 "... part of a feminist agenda that
26 is not about equal rights for women.

27 Instead ..."
28

1 and this is a direct quote,

2 "it is about a socialist, anti-
3 family, political movement that
4 encourages women to leave their
5 husbands, kill their children,
6 practice witchcraft, destroy
7 capitalism, and become lesbians."
8

9 That's from Robertson! I mean, he was a serious candidate for
10 President of this country.

11 It's something we need to take note of, it seems to
12 me, in this context of a nominee for a very important commission
13 that we have, although it may be wiped out by our budget
14 problems. You're aware of that.

15 MS. PADBERG: Right.

16 SENATOR PETRIS: I don't know if this has come to
17 your attention. It's today's paper. I'll give you a copy of
18 this.

19 I think all women who are in the forefront, or even
20 just members of one of the organizations, should be made aware
21 of this. I think it's despicable.

22 Thank you, Mr. Chairman.

23 SENATOR CRAVEN: You're entirely welcome.

24 Senator Beverly.

25 SENATOR BEVERLY: I'm prepared to make a motion.

26 SENATOR CRAVEN: Let's go with your motion.

27 SENATOR BEVERLY: I move we recommend confirmation.

28 SENATOR CRAVEN: All right, it's been recommended

1 that Ms. Padberg be confirmed.

2 Call the roll, please.

3 SECRETARY WEBB: Senator Beverly.

4 SENATOR BEVERLY: Aye.

5 SECRETARY WEBB: Beverly Aye.

6 Senator Mello.

7 SENATOR MELLO: Aye.

8 SECRETARY WEBB: Mello Aye.

9 Senator Petris.

10 SENATOR PETRIS: Aye.

11 SECRETARY WEBB: Petris Aye.

12 Senator Craven.

13 SENATOR CRAVEN: Aye.

14 SECRETARY WEBB: Craven Aye.

15 Senator Roberti.

16 Four to zero.

17 SENATOR CRAVEN: You're confirmed to the Floor.

18 Congratulations.

19 MS. PADBERG: Thank you.

20 [Thereupon the final vote for
21 confirmation was 5-0, as Senator
22 Roberti's aye vote was added
23 pursuant to Senate Rule 28.7]

24 [Thereupon this portion of the
25 Senate Rules Committee hearing
26 was terminated at approximately
27 4:00 P.M.]
28


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I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of August, 1992.


EVELYN J. MIZAK
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APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

MEMBERS ABSENT

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

A. VERNON CONRAD, Member
California Regional Water Quality Control Board
Central Valley Region

GEORGE N. ZENOVICH, Lobbyist

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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: We have one item on our agenda this evening, and that is the confirmation of A. Vernon Conrad, Member of the California Regional Water Quality Control Board, Central Valley Region.

Mr. Conrad, please come forward.

The last time Mr. Conrad's confirmation was before us, I think the vote was 2-2 in Committee, one abstention, so we are convening here today.

We'll ask you briefly -- I think you went through a hearing already, and the text of that hearing is available to us -- we'll ask you just briefly to tell us why you feel you're qualified to assume this position.

MR. CONRAD: Well, Mr. Chairman and Senators, I apologize for taking up your Sunday afternoon, your Sunday evening, and all of the staff as well. But I certainly solicit a favorable vote.

I think I have a real broad base of support. I think you have received support from all of the counties in my region which unanimously supported me for this position.

Throughout the years, I have spent a significant amount of time in preparation for such as this. I've spent a lot of time in water matters. I've spent a couple years as the Chairman of the Water Problems Committee for the Farm Bureau organization. I've spent nine years on the Board as Chairman of the Alta Irrigation District Board. I've spent five years on

1 the Board of the Kings River Conservation District. I also
2 served on the Kings River Water Association Executive Committee.

3 I feel that I have the background, the knowledge, and
4 I'm certainly prepared to continue to serve on this Board and do
5 a good job.

6 I would assure you that I am not a rubber stamp of
7 anybody. I make up my own mind, and I do my homework. I read
8 all of the material and -- which is a great volume of it that
9 comes to members of the Board.

10 And I do have a -- I think, a real responsible
11 position as far as the environment's concerned. I live by the
12 environment; I'm a farmer.

13 And therefore, I think I'm qualified for the job, and
14 I would ask you to consider me favorably.

15 CHAIRMAN ROBERTI: Is there anyone here in support?
16 Yes, former-Senator George Zenovich.

17 MR. ZENOVICH: Mr. Chairman and Members, if I may, I,
18 too, want to apologize for inconveniencing you all this evening.

19 I've known Mr. Conrad for many, many years. I have
20 respected his work generally in the water field. As a matter of
21 fact, when I was in the Legislature, he was one of the people
22 that I used to call upon to get advice on how to vote, what
23 direction to take on water issues.

24 In my opinion, he's emine
25
26
27
28

1 involving a land use change. Some gentleman wanted to put in a
2 race track in an area in Fresno, and no environmental report was
3 available. And Mr. Conrad was one of two votes against making
4 this change at that time because of the lack of an environmental
5 report.

6 So, I'm here --

7 SENATOR BEVERLY: That wasn't Senator Maddy; was it?

8 MR. ZENOVICH: No, no.

9 [Laughter.]

10 MR. ZENOVICH: This is an automobile race track.
11 Different kind of race track.

12 Thank you.

13 CHAIRMAN ROBERTI: Thank you.

14 Is there anyone here in opposition?

15 In the last two hearings, there was some concern from
16 one of your colleagues on the Board of Supervisors that, as he
17 put it, the only time you voted against any development interest
18 was when it was in your district.

19 Is that normally --

20 MR. CONRAD: Excuse me, sir. I don't think there was
21 any -- that was former-Congressman Krebs.

22 CHAIRMAN ROBERTI: Oh, that was a Congressman.

23 MR. CONRAD: Yes.

24 CHAIRMAN ROBERTI: He never was a Supervisor?

25 MR. CONRAD: Yes, he was a Supervisor, but not at the
26 same time that I've been a Supervisor.

27 CHAIRMAN ROBERTI: Well whatever, that was his
28

1 allegation, which you only voted against -- you only used
2 discernment in these questions when it involved your own
3 district; otherwise, you pretty much --

4 MR. CONRAD: Well --

5 CHAIRMAN ROBERTI: Since I wasn't at the two
6 hearings, unfortunately, I try to glean your ideas.

7 MR. CONRAD: The Congressman isn't here, so I
8 wouldn't -- I think it's probably best for me not to comment on
9 it.

10 I would say one thing. Contrary to what the
11 Congressman said, I did take a very active role in his defeat
12 for re-election, and I'm sure that didn't have any bearing on
13 his testimony at all.

14 CHAIRMAN ROBERTI: All right.

15 Then I guess the other points were some concerns by
16 both the Sierra Club and the Planning and Conservation League.

17 It's not a requirement, of course, that they endorse
18 you, but, I mean, their opposition is serious in a water
19 question.

20 I would like you, maybe, to perhaps address some
21 instances where you have, you know, shown sensitivity to
22 environmental questions.

23 MR. CONRAD: Well, as I've stated before, I certainly
24 am in favor of CEQA. I think that intent --

25 CHAIRMAN ROBERTI: I think there was some testimony
26 that you were opposed to CEQA. That's not the case?

27 MR. CONRAD: That's not the case.
28

1 I did make a statement, probably, one time in a
2 certain time. You know, when you're an elected official,
3 there's a lot of times you'd best just not say anything, but
4 that's not been my method. I am rather outspoken, and sometimes
5 I may have gotten into difficulty.

6 What I did say was that I was not in favor of using
7 the CEQA or the Act to prevent projects from -- just creating a
8 problem for projects if there wasn't a real reason for that.

9 I certainly support gathering all of the information.
10 I believe that's what the intent of the Act is, and then the
11 governing body to assess all of those impacts and, to the best
12 possible ability, to compensate for them. And I think that's
13 necessary.

14 But I don't believe in just holding up projects and
15 creating a monetary problem over and over to stop something. In
16 a lot of cases, that's what environmental impact considerations
17 are used for today.

18 CHAIRMAN ROBERTI: Thank you.

19 MR. CONRAD: And I would like -- I think you have in
20 your support there an indication of people who are members of
21 the Sierra Club, not the club itself. But I received letters
22 from a couple of members of the Sierra Club in my support.

23 CHAIRMAN ROBERTI: Well, are there any other
24 questions from the Committee?

25 Does anyone else in the audience wish to speak on the
26 appointment?

27 I guess I was at that time, supposedly, a swing vote
28

1 because I wasn't here. I do intend to vote for your
2 confirmation.

3 I think you do have a number of people whom I respect
4 supporting you, and although I'm a little bit concerned about
5 some of your positions, I've generally felt it's not my position
6 to second-guess a choice of the Governor unless it's a grievous
7 policy difference, or a grievous ethical question. It's none of
8 those.

9 And the policy is that the Governor was elected to be
10 the Governor of the State, and I have voted against some of his
11 appointments, but I think the case has to be somewhat
12 overwhelming for me to cast that kind of a vote.

13 So, I do intend to vote for your confirmation.

14 Any other observations from the Committee? Do I hear
15 a motion?

16 SENATOR BEVERLY: I'm prepared to move, Mr. Chairman,
17 that we recommend the confirmation.

18 CHAIRMAN ROBERTI: Senator Beverly moves that
19 confirmation be recommended to the Floor.

20 Secretary will call the roll.

21 SECRETARY WEBB: Senator Beverly.

22 SENATOR BEVERLY: Aye.

23 SECRETARY WEBB: Beverly Aye.

24 Senator Mello.

25 SENATOR MELLO: Aye.

26 SECRETARY WEBB: Mello Aye.

27 Senator Petris. Senator Craven. Senator Roberti.
28

1 CHAIRMAN ROBERTI: Aye.

2 SECRETARY WEBB: Roberti Aye.

3 Three to zero.

4 CHAIRMAN ROBERTI: The vote is three to zero;
5 confirmation is recommended to the Floor. We'll take it up
6 tomorrow.

7 Congratulations.

8 MR. CONRAD: Thank you very much, and again, I
9 apologize for taking your Sunday evening.

10 CHAIRMAN ROBERTI: Your drop-dead date,
11 unfortunately, was before we would be coming back.

12 SENATOR BEVERLY: What about Senator Craven?

13 CHAIRMAN ROBERTI: I would like to leave it on for
14 him. Well, let's leave the call.

15 [Thereafter, the call was lifted,
16 Senator Craven voted in favor of the
17 confirmation, and the final vote was
18 4-0 to recommend confirmation.]

19 [Thereupon this portion of the
20 Senate Rules Committee hearing
21 was terminated at approximately
22 7:17 P.M.]

23 --oo0oo--
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28


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Shorthand Reporter

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